

**SUPPLEMENTAL BOARD BOOK  
OF  
February 10, 2021**



**Leo Vasquez III, Chair**  
**Paul Braden, Vice-Chair**  
**Sharon Thomason, Member**  
**Ajay Thomas, Member**  
**Brandon Batch, Member**  
**Kenny Marchant, Member**



- d) Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department, and an order directing their publication for public comment in the Texas Register
- e) Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department, an order proposing new §1.2 Department Complaint Process, and an order directing their publication for public comment in the Texas Register
- f) Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors, and directing its publication for public comment in the Texas Register
- g) Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.6, Historically Underutilized Businesses, and directing its publication for public comment in the Texas Register
- h) Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12, Negotiated Rulemaking, and directing its publication for public comment in the Texas Register
- i) Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures, and an order directing their publication for public comment in the Texas Register
- j) Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution, and directing its publication for public comment in the Texas Register
- k) Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance, and an order directing their publication for public comment in the Texas Register
- l) Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department, and an order directing their publication for public comment in the Texas Register
- m) Presentation, discussion, and possible action on the adoption of the 2022 State of Texas Low Income Housing Plan and Annual Report; and an order adopting the repeal and new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report and directing their submission to the Texas Register
- n) Presentation, discussion, and possible action on the adoption of the repeal of 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule; the adoption of new 10 TAC Chapter 27, Texas First Time Homebuyer Program Rule; and directing their submission for adoption to the Texas Register
- o) Presentation, discussion, and possible action on the adoption of the repeal of 10 TAC Chapter 28, Taxable Mortgage Program; the adoption of new 10 TAC Chapter 28,

Taxable Mortgage Program; and directing their submission for adoption to the Texas Register

**FINANCIAL ADMINISTRATION**

- p) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

**Joe Guevara**  
Director of Financial Administration

**CONSENT AGENDA REPORT ITEMS**

**ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:**

- a) Media Analysis and Outreach Report (December 2021)
- b) Report on TDHCA One-Time or Temporary Allocations – Pandemic Response and Other Initiatives
- c) Report on the Department’s 1st Quarter Investment Report in accordance with the Public Funds Investment Act
- d) Report on the Department’s 1st Quarter Investment Report relating to funds held under Bond Trust Indentures

**Michael Lyttle**  
Director of External Affairs  
**Brooke Boston**  
Deputy Director of Programs  
**Joe Guevara**  
Director of Financial Administration  
**Monica Galuski**  
Director of Bond Finance

**ACTION ITEMS**

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions<sup>1</sup>

**Leo Vasquez**  
Chair

**ITEM 3: EXECUTIVE**

Executive Director’s Report

**Bobby Wilkinson**  
Executive Director, TDHCA

**ITEM 4: HOUSING STABILITY SERVICES**

Presentation, Discussion and Possible Approval granting authority for Emergency Rental Assistance 2 Housing Stability Service Funds to be awarded to the Texas Veterans Commission for the provision of housing stability services

**Cate Tracz**  
Director of Housing Stability Services

**ITEM 5: COMMUNITY AFFAIRS**

- a) Presentation, discussion, and possible action on awards for 2022 Community Services Block Grant discretionary funds for education and employment services to Native American and Migrant Seasonal Farmworker populations
- b) Presentation, discussion, and possible action to effectuate the use of non-federal funds to repay the U.S. Department of Health and Human Services Administration for Children and Families for costs disallowed as a result of the 2014 LIHEAP monitoring

**Michael De Young**  
Director of Community Affairs

**ITEM 6: ASSET MANAGEMENT**

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

**Rosalio Banuelos**  
Director of Asset Management

20186 The Residence at Ridgehill Kerrville

**ITEM 7: MULTIFAMILY FINANCE**

- a) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(a)(2)(C) for The Landing at Spears (#22184)
- b) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1(e) for Wellington Frost Town (#22295)
- c) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Pathways at Chalmers Courts West (#20202) in Austin

**Cody Campbell**  
Director of Multifamily Programs

<sup>1</sup> Note: the Chair is not restricted by this item, and may call for an Executive Session at any time during the posted meeting.



- d) Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Telephone Road Elderly (#19077) in Houston
- e) Presentation, discussion, and possible action regarding waivers of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Supplemental Housing Tax Credit Requests from the 2022 Competitive Housing Tax Credit Ceiling
- f) Presentation, discussion, and possible action regarding approval of Supplemental Housing Tax Credit requests for the 2022 Competitive Housing Tax Credit Application Round
- g) Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2021-3 Notice of Funding Availability (NOFA), as amended
- h) Presentation, discussion, and possible action on an award of a Predevelopment Grant from the Multifamily 2021-2 Special Purpose Notice of Funding Availability: Predevelopment

**PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS**

The Board may go into Executive Session Pursuant to Tex. Gov't Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

Pursuant to Tex. Gov't Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or

Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

**OPEN SESSION**

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

**ADJOURN**

To access this agenda and details on each agenda item in the board book, please visit our website at [www.tdhca.state.tx.us](http://www.tdhca.state.tx.us) or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11<sup>th</sup> Street, Austin, Texas 78701, and request the information. If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Kathleen Vale Castillo, 512-475-4144, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Kathleen Vale Castillo, al siguiente número 512-475-4144 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department, and an order directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to satisfy Tex. Gov't Code §2306.066(e), which requires the Executive Director to prepare a written plan to provide persons with disabilities an opportunity to participate in the Department's programs, and in accordance with the Fair Housing Act, and other federal and state civil rights laws;

**WHEREAS**, the current rule relating to the handling of reasonable accommodation requests to the Department is in need of revisions to bring several definitions into concurrence with definitions in other Department rules, include phone number and email as requested contact information, clarify the process to be used in the handling of Reasonable Accommodations by staff, allow staff to grant approvals of Reasonable Accommodation requests, and make other minor non-substantive revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be

published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

### **BACKGROUND**

The Department last amended 10 TAC §1.1, Reasonable Accommodation Requests, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed: update definitions including bringing several definition into concurrence with definitions in other Department rules, include phone number and email as requested contact information, clarify the process to be used in the handling of Reasonable Accommodations by staff, allow staff to grant approvals of Reasonable Accommodation requests, and make other minor non-substantive revisions.

The rule, as proposed, will be released for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the handling of requests for reasonable accommodations.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

#### §1.1 Reasonable Accommodation Requests to the Department

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.1 Reasonable Accommodation Requests to the Department. The purpose of the proposed rule is to: update definitions including bringing several definition into concurrence with definitions in other Department rules, include phone number and email as requested contact information, clarify the process to be used in the handling of Reasonable Accommodations by staff, allow staff to grant approvals of Reasonable Accommodation requests, and make other minor non-substantive revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the handling of requests for reasonable accommodations.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand nor contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.



d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute.

## §1.1 Reasonable Accommodation Requests to the Department

(a) Purpose. The purpose of this section is to establish the procedures by which a Requestor may ask that a Reasonable Accommodation is made to the Department. For rules governing the handling of reasonable accommodation requests and responsibilities of entities receiving funds or resources from the Department see Subchapter B, §1.204 of this Chapter, relating to Reasonable Accommodations. This rule is statutorily authorized by Tex. Gov't Code, 2306.066(e), which requires the Executive Director to prepare a written plan to provide persons with disabilities an opportunity to participate in the Department's programs, and in accordance with the Fair Housing Act, and other federal and state civil rights laws.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--~~The Governing Board of the~~ Texas Department of Housing and Community Affairs. Governing Board.

(2) ~~Program Division~~ Manager or Director--Department staff member supervising the division or area of a division containing the program for which a Reasonable Accommodation is being requested.

(3) Disability--A physical or mental impairment that substantially limits one or more major life activities; or having a record of such an impairment; or being regarded as having such an impairment. Included in this meaning is the term handicap as defined in the Fair Housing Act, or the term disability as defined in the Americans with Disabilities Act. or as defined by other applicable federal or state law.

(4) Fair Housing Act--Fair Housing Act of 1968, also known as Title VIII of the Civil Rights Act of 1968.

(5) Reasonable Accommodation--An accommodation and/or modification that is an alteration, change, exception, or adjustment to a program, policy, service, building, or dwelling unit, that will allow a qualified person with a Disability to:

- (A) Participate fully in a program;
- (B) Take advantage of a service;
- (C) Live in a dwelling; or
- (D) Use and enjoy a dwelling.

(6) Requestor--Includes applicants, members of the public, clients of Department programs, ~~and~~ program participants, or their representatives.

(7) Section 504--Section 504 of the Rehabilitation Act of 1973, as amended.

(c) Procedures.

(1) The Requestor of the Reasonable Accommodation shall submit a request to the Division Manager or Director or their designee. A request does not have to be in writing. A request can be made in a face-to-face conversation with a Division Manager or Director or their designee, or using any other method of communication. A request is any communication in which an individual clearly asks or states that they need the Department to provide or to change something because of a Disability.

(2) The request, whether oral or written, must contain, at minimum:

- (A) The Department program or procedure for which an accommodation is being requested;
- (B) Household information to include name, ~~and~~ address, phone number and email address, if available;
- (C) Description of the Reasonable Accommodation being requested; and
- (D) Reason the Reasonable Accommodation is necessary.

(E) In the case of oral requests, the Division Manager or Director will create a written summary of the request.

(3) The Division Director ~~may~~will coordinate with the Department's Fair Housing subject matter experts as needed. ~~Manager and~~The supervising Director, if any, and may ask for additional information from the Requestor. Staff should address Reasonable Accommodations requests promptly. If making the requested~~such a~~ Reasonable Accommodation would ~~involve~~ require the Department to incur an expense, ~~the Division Director staff should~~ will first confirm that ~~consult with their Division Manager or Director to ensure that they~~ the Reasonable Accommodation expense will not cause the Division to exceed ~~remain within~~ their approved budget or, if additional measures beyond those within budget are required, that they are promptly considered and a compliant decision made. Upon having the applicable information, the Division Director or Manager and Fair Housing subject matter experts, as needed, ~~Manager~~ will determine:

(A) If the proposed Reasonable Accommodation is covered under Section 504 and/or the Fair Housing Act, or any other federal or state law; and

(B) Whether to approve the request, or recommend to the Executive Director ~~approval,~~ an alternative Reasonable Accommodation, or denial. Any approval that would require Board action will first be presented to the Executive Director.

(4) If not approved as requested or if the approval requires Board action, ~~The~~ request and recommendation, ~~are~~will then be sent to the Executive Director or their designee, resulting in one of the following steps:

~~(A) The Executive Director determines Board action is not necessary and approves the request;~~

~~(A)~~ (B) The Executive Director proposes an alternative Reasonable Accommodation to the Requestor;

~~(B)~~ (C) The Executive Director concur ~~determines~~ Board action is necessary and presents the request and recommendation ~~any proposed alternative Reasonable Accommodation~~ at an ensuing Board meeting. The Executive Director can choose to include a recommendation for or against the request; or

~~(D) The Executive Director refers the request to the Department's Dispute Resolution Coordinator for an Alternative Dispute Resolution procedure as outlined in 10 TAC §1.17; or~~

(E) The Executive Director denies the request. In the case of a denial, the Requestor can ask that their request be placed on the agenda for the next available Board meeting for a final Board determination.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on an order proposing the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department, an order proposing new §1.2 Department Complaint Process, and an order directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to continue to provide a clear process by which interested parties may file complaints to the Department;

**WHEREAS**, the current rule relating to the handling of complaints is in need of revisions to update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith,

make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

### **BACKGROUND**

The Department last amended 10 TAC §1.2, Department Complaint System to the Department, in September 2018.

Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed: update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions. Additionally staff is revising the title of this rule from 'Department Complaint System to the Department' to 'Department Complaint Process.'

The rule, as proposed, will be released for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint System to the Department. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the process to be used for persons wishing to file a complaint with the Department.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.2 Department Complaint System to the Department



**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint Process**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.2 Department Complaint Process. The purpose of the proposed rule is to: update definitions, clarify the applicability of the rule, improve the organization of the rule, clarify what occurs upon receipt of a complaint including when no contact information has been provided and when the complaint may involve a reasonable accommodation request, and make other procedural and minor revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the process to be used for persons wishing to file a complaint with the Department.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand nor contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute.

## §1.2 Department Complaint Process

(a) Purpose. The purpose of this section is to establish the procedures by which complaints are filed with the Department and how the Department handles those complaints under Department jurisdiction in compliance with Tex. Gov't Code §2306.066, Tex. Gov't Code, Chapter 2105, Subchapter C, and 24 CFR §91.115(h), as applicable.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Complainant--A Person filing a Complaint.

(12) Complaint--A complaint submitted to the Department in writing (via mailed letter, fax, email, or submitted online through the Department website) from a person that believes the Department has the authority to resolve the issue. ~~This excludes consumer complaints relating to manufactured housing.~~

(23) Complaint Coordinator--Department employee designated by the Executive Director or ~~their~~ his designee to monitor the Public Complaint System and coordinate activities related to complaints.

(34) Complaint Liaison--the Department employee(s) designated by each division or program to handle each division's or program's complaint-related issues.

(45) Department--The Texas Department of Housing and Community Affairs.

(56) Person--Any individual, other than an employee of the Department, and any partnership, corporation, association, governmental subdivision, or public or private organization of any character.

(67) Public Complaint System--Department-created system used to track ~~and process~~ complaints received by the Department.

(c) Applicability. Except as specifically adopted in whole or in part by rule or contractual provision this rule is not applicable to:

(1) consumer complaints relating to manufactured housing which are alternatively addressed by §80.73 of this title relating to Manufactured Housing Procedures for Handling Consumer Complaints; and

(2) Complaints filed in association with temporary Department programs for which a separate Complaint process has been established.

(d) Procedures.

(1) Complaint Submission. A ~~person~~ Person who has a Complaint may submit such Complaint in writing to the Department, for submission which will be directed to a Complaint Coordinator. If an accommodation because of a disability is needed in relation to the process of filing of a Complaint, the Person interested in filing the Complaint should refer to 10 TAC §1.1, Reasonable Accommodation Requests to the Department; if assistance is needed for non-English speaking persons, the Person interested in filing the Complaint should access the Department's Language Assistance webpage (<https://www.tdhca.state.tx.us/lap.htm>).

(24) Upon receipt of a Complaint:

(A) A Complaint Coordinator ~~shall~~ will enter the complaint in the Public Complaint System.;

(B) A Complaint Coordinator will review ~~and process~~ the ~~e~~Complaint, and as needed, forward the ~~e~~Complaint to the appropriate program or division Complaint Liaison(s).

(C) Notwithstanding any other provisions of this subsection, in the case of Complaints received by the Department in which no method of contacting the Complainant was provided, the Complaint Coordinator will close the Complaint in the Public Complaint System and provide a copy of the Complaint to the applicable program or division for informational purposes only.

(D) A Complaint Coordinator may also identify whether a Complaint received involves a potential Reasonable Accommodation request involving a Department recipient or property; in such cases the Complaint will be handled as provided for in §1.204 of this chapter relating to Reasonable Accommodations.

(E) Complaints that have potential Fair Housing Act violations may, at the Department's discretion, be also referred to the Texas Workforce Commission's Civil Rights Division.

(F) The Department will notify the Complainant of the status of the Complaint at least quarterly until there is a disposition of the Complaint, which is the final determination; there is no further process available, except as otherwise provided in state or federal law.

~~(32)~~ A Complaint Liaison ~~will~~shall investigate research and evaluate the issues identified in the Complaint, ~~and then~~ resolve ~~and/or~~ close the Complaint. ~~A~~The Complaint Liaison ~~shall~~will enter in the Public Complaint System summaries of each contact made with the eComplainant and any actions taken leading to complaint resolution. ~~in the Public Complaint System.~~

~~(43)~~ The Complaint Coordinator ~~may~~will submit periodic summary reports or analysis to the Executive Director or designee.

~~(54)~~ The Department ~~will~~shall provide to the Person filing the Complaint, and to each Person who is a subject of the Complaint (to the extent contact information is available), a link to copy of this rule, which serves as the Department's policy and procedures relating to complaint investigation and resolution.

~~(65)~~ The Department ~~will~~shall either notify the eComplainant of the resolution of the Complaint within 15 business days after the date the Complaint was received by the Department, or notify the eComplainant, within such period, of the date the eComplainant can expect a response to the Complaint.

~~(6) The Department shall notify the complainant of the status of the Complaint at least quarterly and until the final disposition of the Complaint.~~

(7) Additional Complaints submitted by the same Complainant describing an issue which has previously been closed, had a final resolution, and for which there is no substantively new information presented, will be considered resolved by the Department. A letter to this effect will be sent to the Complainant by the Department. In such cases, a new Complaint will not be opened in the system.

~~(87)~~ An information file about each eComplaint ~~will~~shall be maintained. The file must include:

- (A) the Complaint number;
- (B) the name of the Complainant~~person who filed the Complaint~~;
- (C) the date the Complaint was received by the Department;
- (D) the subject matter of the Complaint;
- (E) the name of each Person contacted in relation to the Complaint, if applicable;
- (F) a summary of the results of the review ~~or investigation~~ of the Complaint; ~~and~~

(G) the date the Complaint was closed; and

~~(HG) an explanation of the final resolution of the Complaint including the reason the file was closed, if the Department closed the file without taking action other than to investigate the Complaint.~~

~~(98)~~ A Complaint may be withdrawn by the eComplainant at any time.

~~(109)~~ A eComplainant may request and receive from the Department copies of any documentation or records collected by the Department with regard to the eComplaint, subject to the Texas Public Information Act.

~~(110)~~ Adherence to these procedures is not required by the Department if another procedure is required by law, or if the following of a procedure above would jeopardize an audit or Government undercover investigation.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.4, Protest Procedures for Contractors, and directing its publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.4, Protest Procedures for Contractors, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to comply with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to submit the proposed readoption of the rule as required by Tex. Gov't Code, §2001.039 for a public comment period as part of the four-year rule review process; and

**WHEREAS**, such proposed action will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed action herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.4, Protest Procedures for Contractors, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule will be made available for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.4, Protest Procedures for Contractors**

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.4, Protest Procedures for Contractors. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to comply with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from February 25, 2022, through March 25, 2022. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, March 25, 2022.



## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.4, Protest Procedures for Contractors**

(a) Purpose. The purpose of this rule provides for the Department's compliance with 34 TAC Chapter 20, Subchapter F, Division 3, the rules of the Texas Comptroller of Public Accounts addressing procurement, which require state agencies to adopt protest procedures consistent with the Comptroller's procedures.

(b) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The Governing Board of the Department.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Interested Parties-- All vendors who have submitted bids or proposals for the contract involved. A list of interested parties is available upon request from the Department.

(4) Protest--A written objection submitted to the Department by any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of a procurement contract by the Department.

(c) These procedures are for Department procurements only. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with a solicitation, evaluation, or award may formally protest to the Department's Purchasing Officer.

(d) To be considered timely, the Protest must be filed in accordance with the requirements of 34 TAC §20.535(b).

(e) To be considered complete, the Protest must be in writing, signed by an authorized representative, notarized, and contain:

(1) a specific identification of the statutory or regulatory provision(s) that the Person submitting the Protest alleges to have been violated;

(2) a specific description of each act made by the Department that the Person submitting the Protest alleges to have been violated specified in the statutory or regulatory provision(s) identified in paragraph (1) of this Subsection;

(3) a precise statement of the relevant facts including:

(A) sufficient documentation to establish that the Protest has been timely filed;

(B) a description of the adverse impact to the Department or the state; and

(C) a description of the resulting adverse impact to the protesting vendor;

(4) a statement of the argument and authorities that the Person submitting the Protest offers in support of the Protest;

(5) an explanation of the subsequent action the Person submitting the Protest is requesting; and

(6) except for a Protest that concerns the solicitation documents or actions associated with the publication of solicitation documents, a statement confirming that copies of the Protest have been mailed or delivered to other identifiable Interested Parties.

(f) The Purchasing Officer shall have the initial authority to settle and resolve the Dispute concerning the solicitation or award of a contract. The Purchasing Officer may dismiss the Protest if it is not timely filed or does not meet the requirements of this section. The Purchasing Officer may solicit written responses to the Protest from other Interested Parties.

(g) If the Protest is not resolved by mutual agreement, the Purchasing Officer will provide a written recommendation to the Department's Executive Director.

(h) The Executive Director shall issue a final written determination on the Protest within 15 calendar days after receipt of the Purchasing Officer's recommendation in accordance with the requirements of 34 TAC §20.537(c).

(i) In the alternative, the Executive Director may, in his or her discretion, refer the matter to the Department's Governing Board for their consideration at a regularly scheduled meeting. The decision of the Board shall be final.

(j) A protesting party may appeal the determination of the Executive Director under Subsection (g) of this section to the Department's Governing Board. An appeal of the Executive Director's determination must be in writing and received by the Purchasing Officer not later than 10 calendar days after the date the Executive Director sent written notice of their determination. The scope of the appeal shall be limited to review of the Executive Director's determination. The protesting party must mail or deliver to all other interested parties a copy of the appeal, which must contain a certified statement that such copies have been provided.

(1) The appeal will be presented for consideration at the next regularly scheduled meeting of the Governing Board. The decision of the Governing Board shall be final.

(2) An appeal that is not filed timely shall not be considered unless good cause for delay is shown in writing relating to issues that are significant to agency procurement practices or procedures, or the Department's General Counsel makes such a determination.

(k) All documents collected by the Department as part of a solicitation, evaluation, and/or award of a contract shall be retained with the procurement file according to Department's Records Retention Schedule.

(l) The Department reserves all of its rights under 34 TAC §20.536. The Department may award a solicitation or award without delay, in spite of a timely filed Protest, to protect the best interests of the state.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.6, Historically Underutilized Businesses, and directing its publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.6, Historically Underutilized Businesses, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to encourage the use of Historically Underutilized Businesses (HUBs) in the Department's procurement processes and to comply with Tex. Gov't Code §2161.003, which requires that the Department adopt the Texas Comptroller of Public Accounts HUB Program rules;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to submit the proposed readoption of the rule as required by Tex. Gov't Code, §2001.039 for a public comment period as part of the four-year rule review process; and

**WHEREAS**, such proposed action will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed action herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.6, Historically Underutilized Businesses, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule will be made available for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.6, Historically Underutilized Businesses**

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, 10 TAC §1.6, Historically Underutilized Businesses. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to encourage the use of Historically Underutilized Businesses (HUBs) in the Department's procurement processes and to comply with Tex. Gov't Code §2161.003, which requires that the Department adopt the Texas Comptroller of Public Accounts HUB Program rules. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from February 25, 2022, through March 25, 2022. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, March 25, 2022.

## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.6, Historically Underutilized Businesses**

It is the policy of the Department to encourage the use of Historically Underutilized Businesses ("HUB") in the Department's procurement processes. The purpose of the HUB program is to promote full and equal business opportunities for all businesses in an effort to remedy disparity in state procurement and contracting in accordance with the HUB goals specified in the 2009 State of Texas Disparity Study. As required by Tex. Gov't Code §2161.003, the Department adopts the Texas Comptroller of Public Accounts ("Comptroller") HUB Program rules at 34 TAC §§20.281 - 20.298 (relating to Historically Underutilized Business Program, and as may be amended by the Comptroller so far as the amendments are implementing Tex. Gov't Code §2161.003), which describe the minimum steps and requirements to be undertaken by the Comptroller and state agencies to fulfill the state's HUB policy, and attain aspirational goals identified in the Texas Disparity Study.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12, Negotiated Rulemaking, and directing its publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.12, Negotiated Rulemaking, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to satisfy Tex. Gov't Code §2306.082, which requires the Department to encourage negotiated rulemaking;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to submit the proposed readoption of the rule as required by Tex. Gov't Code §2001.039 for a public comment period as part of the four-year rule review process; and

**WHEREAS**, such proposed action will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed action herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.12, Negotiated Rulemaking, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule will be made available for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.

**Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking**

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.12 Negotiated Rulemaking. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage negotiated rulemaking. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from February 25, 2022, through March 25, 2022. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, March 25, 2022.

## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.12, Negotiated Rulemaking**

(a) Purpose. In accordance with Tex. Gov't Code §2306.082, the Department encourages the use of negotiated rulemaking procedures for the adoption of Department rules. Tex. Gov't Code Chapter 2008 describes the procedures for negotiated rulemaking including appointment of a convener; publishing notice of proposed negotiated rulemaking and requesting comments on the proposal; appointing a negotiated rulemaking committee; appointing an impartial third party facilitator; and proposing the resulting draft rule for public comment.

(b) Request for Negotiated Rulemaking Process.

(1) Any person or organization that would like for the Department to use negotiated rulemaking for the adoption of a Department rule may submit such a request to the Department's Board Secretary. The proposal must identify: the rule proposed for negotiated rulemaking, potential participants for the negotiated rulemaking committee, possible third party facilitators, and a suggested timeline for the process. The Department may also on its own propose to use negotiated rulemaking.

(2) In determining whether a proposed negotiated rulemaking is appropriate in a particular situation, the Department and interested parties may consider any relevant factors, including:

(A) The number of identifiable interests that would be significantly affected by the proposed rule;

(B) The probability that those interests would be adequately represented in a negotiated rulemaking;

(C) The probable willingness and authority of the representatives of affected interests to negotiate in good faith;

(D) The probability that a negotiated rulemaking committee would reach a unanimous or a suitable general consensus on the proposed rule;

(E) The probability that negotiated rulemaking will not unreasonably delay notice and eventual adoption of the proposed rule;

(F) The adequacy of agency and public resources to participate in negotiated rulemaking; and

(G) The probability that the negotiated rulemaking committee will provide a balanced representation among all interested and affected parties. (Tex. Gov't Code §2008.052(d)).

(3) The Department generally will respond to the request within seven calendar days. If the negotiated rulemaking is not pursued, the Department will provide the party making the request with an explanation for the basis of the decision.

(c) If the Department decides to proceed with a negotiated rulemaking, it shall follow the process outlined in Tex. Gov't Code Chapter 2008 and costs associated with the negotiated rulemaking process will be handled as specified in Tex. Gov't Code §2008.003.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures, and an order directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to provide clear procedures for contested case hearings;

**WHEREAS**, the current rule relating to contested case hearings is in need of revisions to improve clarity, revise how notice will be served, and to denote that a hearing may be initiated at the request of the Board;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.13, Contested Case Hearing Procedures, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed improve clarity, revise how notice will be served, and to denote that a hearing may be initiated at the request of the Board. The rule, as proposed, will be released for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the procedures to be used in the case of contested case hearings.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**



The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be a more clear rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.13 Contested Case Hearing Procedures

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.13 Contested Case Hearing Procedures. The purpose of the proposed rule is to improve clarity, revise how notice will be served, and to denote that a hearing may be initiated at the request of the Board.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the procedures to be used in the case of contested case hearings.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand nor contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a more clear rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute.

### §1.13 Contested Case Hearing Procedures

(a) Purpose. The purpose of this section is to provide procedures for contested case hearings. This section does not apply to matters such as appeals to the Board of staff decisions or waivers, and this section does not in itself create any right to a contested case hearing, but merely provides a the process to be used for contested case hearings that are otherwise expressly provided for by law or rule.

(b) SOAH Designation. The Governing Board (the "Board") of the Texas Department of Housing and Community Affairs (the "Department") designates the State Office of Administrative Hearings ("SOAH") to hold all contested case hearings on the Board's behalf.

(c) Initiation of Hearing.

(1) Upon request from the Board or ~~Upon~~ receipt of a pleading or other document that is intended to initiate a contested case proceeding ~~before the Department~~, the Department shall determine if a contested case hearing is indicated under the relevant statutory provisions and rules. ~~and, if so,~~ staff will mark the file as a pending proceeding and refer the matter to SOAH for hearing generally within 45 calendar days, or such other lesser time as an applicable state or federal statute, rule, or regulation may require. The Department will notify the opposing party of any delay.

(2) SOAH shall acquire jurisdiction over a case when the Department completes and files a Request to Docket Case form or other form acceptable to SOAH, together with the notice of report to the Board required under Tex. Gov't. Code §2306.043 or other pertinent documents giving rise to the case. Once SOAH acquires jurisdiction, all subsequent documents created, sent, or received in connection with the proceeding that SOAH requires to be filed with it are to be filed with SOAH, with appropriate service upon the opposing party in accordance with this ~~section~~chapter and the rules of SOAH.

(3) Except upon a showing of good cause or as an applicable statute or federal regulation may require, all contested case hearings in which the Department is a party shall be held at the location so determined by SOAH. ~~at the offices of SOAH located in Austin, Texas.~~

(4) Nothing in this subchapter shall in any way limit, alter, or abridge the ability of the Department to enter into mediation or alternative dispute resolution at any time prior to or after the holding of the administrative hearing but prior to the adoption by the Board of a final order.

(d) Service of Notice of Hearing, Pleadings and Other Documents on Parties.

(1) Service of a notice of hearing or of pleadings or other documents shall be made electronically using the EFileTexas system (found at efiletexas.gov). If EFileTexas is not available to a party, ~~by~~ hand delivery, courier-receipted delivery, regular first class mail or certified mail to the party's last known address as shown on the Department's records, in accordance with §1.22 of this Title (relating to Providing Contact Information to the Department) shall be used.

(2) Service of pleadings and other documents shall be made in any manner provided for in SOAH rules.

(e) Proposal for Decision.

(1) After the conclusion of a hearing, the Administrative Law Judge ("ALJ") shall prepare and serve on the parties a proposal for decision that includes the ALJ's findings of fact and conclusions of law, as modified by the ALJ's addressing of any exceptions and replies to exceptions timely filed with the ALJ in accordance with Tex. Gov't. Code §2001.062 and SOAH rules. The Executive Director shall place the proposal for decision and a proposed final order on the Board's agenda for discussion and possible action at a subsequent meeting of the Board.

(2) At a meeting of the Board where the proposed final order may be adopted, parties may provide testimony based on the record only, for changes to the proposal for decision or the proposed final order. No new evidence shall be submitted at the Board meeting. The Board may, on its own motion, remand to SOAH for any additional fact finding it determines is necessary, or, the Board may change a finding of fact or conclusion of law made by the ALJ, but only for reasons stated in Tex. Gov't. Code §2001.058(e). The Board may adopt a final order if it finds that the findings of fact and conclusions of law are supported by the evidence. Motions for rehearing may be filed and served in accordance with the Tex. Gov't. Code Chapter 2001 and the rules of SOAH.

(f) Disposition of Contested Cases on a Default Basis.

(1) In contested cases where the party not bearing the burden of proof at the hearing fails to appear, the ALJ may issue an order finding that adequate notice has been given, deeming factual allegations in the notice of hearing admitted, if appropriate, conditionally dismissing the case from the SOAH docket, and conditionally remanding the case to TDHCA for disposition on a default basis. Pursuant to SOAH rules, a party has 15 calendar days after the issuance of a conditional order of dismissal and remand to file with SOAH a motion to set aside the order of dismissal and remand. On the sixteenth day after issuance, if no motion to set aside has been timely filed or if such a motion to set aside is not granted within the time limits provided for in SOAH's rules, the conditional order of dismissal and remand becomes final.

(2) When the order of dismissal and remand is final, the Executive Director shall prepare a proposed order for the Board's action containing findings of fact, as set forth in the notice of hearing, conclusions of law, and granting the relief requested by staff. The matter shall be placed on the Board's agenda for discussion and possible action at a subsequent meeting. Although public testimony is allowed, argument and evidence on the merits will not be considered at the Board meeting. Motions for rehearing shall be filed and served in accordance with Tex. Gov't. Code Chapter 2001 and the rules of SOAH.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution, and directing its publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, Tex. Gov't Code §2001.039 requires state agencies to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff has assessed 10 TAC §1.17, Alternative Dispute Resolution, and confirms that the reasons for the initial adoption of this rule continue to exist, which is to satisfy Tex. Gov't Code §2306.082, which requires the Department to encourage the use of alternative dispute resolution procedures;

**WHEREAS**, staff has evaluated the rule and recommends that no changes to the rule as currently in effect are necessary, and as such staff is requesting Board approval to submit the proposed readoption of the rule as required by Tex. Gov't Code §2001.039 for a public comment period as part of the four-year rule review process; and

**WHEREAS**, such proposed action will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed action herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.17, Alternative Dispute Resolution, in September 2018. Therefore, under Tex. Gov't Code §2001.039, which requires that state agencies review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist, the rule is due to be evaluated in 2022. Staff has determined that there is a continuing need for this rule to exist and that no revisions are currently warranted. The Secretary of State requires that even when no revisions are proposed, the rule be released for a public comment period. Therefore, the rule will be made available for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

Note that while the submission to the *Texas Register* does not require the text of the rule be included in the submission or publication, staff has included the text of the rule for the Board's convenience.



**Attachment 1: Notice of Proposed Rule Review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution**

The Texas Department of Housing and Community Affairs (the Department) files this notice of rule review for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.17, Alternative Dispute Resolution. The purpose of the proposed action is to conduct a rule review in accordance with Tex. Gov't Code §2001.039, which requires a state agency to review its rules every four years.

At this time, the Department has determined that there continues to be a need for this rule, which is to satisfy Tex. Gov't Code, §2306.082, which requires the Department to encourage alternative dispute resolution procedures. The Department has also determined that no changes to this rule as currently in effect are necessary. This rule proposed for readoption will be noted in the Texas Register's Review of Agency Rules section without publication of the text.

REQUEST FOR PUBLIC COMMENT. All comments or questions in response to this notice of rule review may be submitted in writing from February 25, 2022, through March 25, 2022. Written comments may be submitted to Brooke Boston, Texas Department of Housing and Community Affairs, P.O. Box 13941, Austin, Texas 78711-3941, or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m. Austin local time, March 25, 2022.

## **Attachment 2: Text of Rule as Currently in Effect for 10 TAC §1.17, Alternative Dispute Resolution**

(a) Purpose. In accordance with Tex. Gov't Code, §2306.082, and as authorized by Tex. Gov't Code, §2009.051(c), the Department encourages the use of appropriate Alternative Dispute Resolution ("ADR") procedures under Tex. Gov't Code, Chapter 2009 to assist in the fair and expeditious resolution of internal and external disputes under the Department's jurisdiction. These ADR procedures are intended to work in conjunction with the guidelines and rules of the State Office of Administrative Hearings found at Tex. Gov't Code, Chapter 2001; 1 TAC Part 7, Chapter 155; and with Chapter 154, Civil Practice and Remedies Code.

(b) Definitions. For purposes of this rule, terms used herein shall have the following meaning:

(1) Alternative Dispute Resolution ("ADR")--a procedure or combination of procedures described in Chapter 154, Civil Practice and Remedies Code.

(2) Dispute Resolution Coordinator--One or more trained persons employed by the Department, who may not be in the Legal Division, designated by the Executive Director to coordinate and process requests for the ADR procedures.

(3) Mediation--a dispute resolution procedure in which an impartial person, the mediator, facilitates communication between the parties to promote reconciliation, settlement, or understanding among them. The mediator may not impose his or her own judgment on the issues for that of the parties (§154.023(a) and (b), Texas Civil Practice and Remedies Code).

(4) Impartial third party--A person who meets the qualifications and conditions of Tex. Gov't Code §2009.053. An Impartial Third Party must possess the qualifications required under the Texas Civil Practice and Remedies Code §154.052 (a minimum of 40 classroom hours of training in dispute resolution techniques), is subject to the standards and duties prescribed by Texas Civil Practice and Remedies Code §154.053 and has the qualified immunity prescribed by Texas Civil Practice and Remedies Code §154.055 for volunteer third parties not receiving compensation in excess of expenses, if applicable. (Tex. Gov't Code §2009.053(d)).

(c) Preliminary Considerations.

(1) The Department encourages communication between Department staff and applicants to the Department programs, and other interested persons, to exchange information and informally resolve disputes.

(2) The Department has appeal procedures found at 10 TAC §1.7, and at 10 TAC §10.902. ADR procedures supplement and do not limit any available procedure for the resolution of disputes (Tex. Gov't Code §2009.052(a)). Pursuing an ADR procedure does not suspend or delay application, appeal, or other deadlines. For example, if a tax credit applicant desires to appeal a Department decision using the procedures promulgated under §2306.6715 and also desires to pursue an ADR procedure, the applicant may independently pursue the two procedures. Each procedure will proceed independently of the other. However, ADR does not suspend any statutory deadlines or grant any additional authority to resolve issues beyond statute.

(3) Consistent with Tex. Gov't Code §2306.082(e), the ADR procedure must be requested before the Department's Board makes a final decision on an issue.

(4) Consistent with Tex. Gov't Code §2306.082(f), the ADR procedure may not be used to unnecessarily delay an appeal proceeding, or other deadline.

(d) Appropriateness of ADR

(1) Assessment of the Dispute. In determining whether an ADR procedure is appropriate, the parties to the dispute, including the Department, should consider the following factors:

(A) whether direct discussions and negotiations between the parties have been unsuccessful and/or the parties believe there is a misunderstanding involving the facts or interpretations that could be improved with the assistance of an Impartial Third Party;

(B) whether the use of ADR potentially could use fewer resources and take less time than other available procedures, and that there is a reasonable likelihood that the use of ADR will result in an agreement to resolve the dispute;

(C) whether there is a reasonable likelihood that the use of ADR will result in an agreement to resolve the dispute, and there are potential remedies or solutions that are only available through ADR; and/or

(D) whether the need for a final decision with precedential value is less important than other considerations. (Nothing herein should be construed as creating a presumption that a final decision establishes binding precedent in any given manner).

(2) The parties may also consider additional factors found in the State Office of Administrative Hearings' ADR Model Guidelines for assessing whether a dispute is appropriate for mediation.

(3) Independent of any proposal from interested parties outside the Department, the Department may propose using ADR procedures to interested parties to try to resolve a dispute.

(e) ADR Process

(1) Any applicant for Department programs or other interested person may request the use of an ADR procedure to attempt to resolve a dispute with the Department. The ADR request must be submitted in writing to the Department's Dispute Resolution Coordinator at the mailing address or email address listed on the Department's website. The request for ADR must state the nature of the dispute, the parties involved, any pertinent or impending deadlines, whether all parties agree to refer the dispute to ADR, proposed times and locations, and the preferred type of ADR procedure.

(2) If an applicant or other interested person is uncertain whether to propose the possible use of ADR or is uncertain about any particular aspect of a possible proposal, they should contact the Department's Dispute Resolution Coordinator to discuss the matter.

(3) The ADR Coordinator will notify the person requesting the ADR procedure that an ADR decision is not binding on the state and that the Department will mediate in good faith.

(4) The ADR Coordinator will provide copies of the request received, and all other materials received, to any other parties to the dispute.

(5) The Dispute Resolution Coordinator shall provide a copy of the ADR request to the Executive Director and General Counsel and other applicable internal parties.

(6) The Dispute Resolution Coordinator will assess whether ADR would assist in fairly and expeditiously resolving the dispute and will notify all affected parties within seven calendar days of receiving an ADR request of one of the following determinations:

(A) If the parties, including the Department, cannot agree on whether an ADR procedure should be used or on the particulars of the ADR procedure, the Dispute Resolution Coordinator will notify both parties that agreement to utilize ADR could not be reached;

(B) If the Dispute Resolution Coordinator determines not to refer the dispute to ADR, the Dispute Resolution Coordinator shall state the reasons in writing; or

(C) If the Dispute Resolution Coordinator decides to refer the dispute to ADR, the date for the selected ADR process will be included in the notice.

(f) Selection of Mediator or Impartial Third Party.

(1) The Department designates the State Office of Administrative Hearings ("SOAH") as the primary mediator for Department ADR requests as required by Tex. Gov't Code §2306.082(b).

(2) If the Department and SOAH agree to utilize an Impartial Third Party other than one so designated through SOAH, an Impartial Third Party will be identified.

(3) The selection of an Impartial Third Party is subject to the approval of the parties to the dispute. If the parties do not suggest potential third parties, the Dispute Resolution Coordinator will provide a list of potential third parties from which to choose. If all parties agree to use an Impartial Third Party who charges for ADR services, then the costs for the Impartial Third Party shall be apportioned equally among all parties, unless otherwise agreed by the parties.

(g) Voluntary Agreement. All parties participating must have the authority to reach an agreement to make a final recommendation to resolve the dispute. The Executive Director will abide by an agreed upon solution to the dispute and either approve that agreement or offer that recommendation to the Board, if Board authorization is needed. The decision to reach agreement is voluntary. If the parties reach a resolution and execute a written agreement, the agreement is enforceable in the same manner as any other written agreement of the same nature with the State. A written agreement to which the Department is a signatory resulting from an ADR procedure must be approved by the appropriate authority.

(h) A written agreement to which the Department is a signatory resulting from an ADR procedure is subject to Tex. Gov't Code Chapter 552 concerning open records.

(i) Confidentiality of Records and Communications. The confidentiality of the communications, records, conduct, and demeanor of an impartial third party and parties in an ADR procedure are governed by Tex. Gov't Code §2009.054.

(j) The Department may share the results of its ADR process with other governmental bodies, and with the Center for Public Policy Dispute Resolution at the University of Texas School of Law, which may collect and analyze the information and report its conclusions and useful information to governmental bodies and the legislature.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance, and an order directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to provide the policy for the reallocation of financial assistance, including assistance related to bonds, administered by the Department if the Department's obligation with respect to that assistance is prematurely terminated;

**WHEREAS**, the current rule relating to reallocation of financial assistance is in need of revisions to add to the list of circumstances in which reallocation may be warranted, to clarify the documents that may address deobligation and reallocation, and to make other minor non-substantive revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last amended 10 TAC §1.19, Reallocation of Financial Assistance, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Staff has determined that there is a continuing need for this rule to exist, however revisions are recommended.

The revisions proposed add to the list of circumstances in which reallocation may be warranted, to clarify the documents that may address deobligation and reallocation, and make other minor non-substantive revisions.

The rule, as proposed, will be released for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.

**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**



The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.19 Reallocation of Financial Assistance

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.19 Reallocation of Financial Assistance. The purpose of the proposed rule is to: add to the list of circumstances in which reallocation may be warranted, to clarify the documents that may address deobligation and reallocation, and to make other administrative clarifications.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to how the Department will reallocate financial assistance.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand nor contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute.

## §1.19 Reallocation of Financial Assistance

(a) Purpose. As provided for by Tex. Gov't Code §2306.111(h), this rule provides the policy for the reallocation of financial assistance, including assistance related to bonds, administered by the Department if the Department's obligation with respect to that assistance is prematurely terminated.

(b) It is the policy of the Department to take prudent measures to ensure that, when funds are provided to recipients for assistance, ~~they~~ funds are timely and lawfully utilized and that, if they cannot be timely and lawfully utilized by the initial recipient, there are mechanisms in place to reallocate those funds to other recipients in order to ensure their full utilization in assisting while maximizing assistance to beneficiaries.

(c) The reallocation of federal or state financial assistance administered by the Department may be required when:

- (1) an administrator, subrecipient, owner, or contractor returns contracted funds;
- (2) reserved funds are not fully utilized at completion of an activity;
- (3) balances on contracts remain unused;
- (4) funds in a contract or reservation are partially or fully recaptured or terminated;
- (5) funds in a contract that were used for an ineligible activity and have been repaid to the Department and the federal oversight agency is allowing the Department to still utilize the funds;
- ~~(6)~~ required benchmarks or expenditure deadlines have not been achieved within the time frames agreed; ~~or~~
- ~~(7)~~ there is program income; or
- (8) other circumstances arise that prompt an initial recipient to be unable to utilize contracted funds.

(d) Reallocation of financial assistance for specific federal or state funding sources or programs administered by the Department is also governed by or provided for in:

- (1) federal regulations and requirements;
- (2) state rules relating to deobligation and reobligation adopted in other ~~§~~ sections of this titlePart;
- (3) funding plans authorized by the Board governing federal or state resources that may have been reviewed and approved by the federal funding agency;
- (4) Notices of Funding Availability ~~or~~ (NOFAs) and Requests for Applications (RFAs); or
- (5) written agreements and contracts relating to the administration of such funds.

(e) To the extent that programs or funding sources are governed by any of the items provided for in subsection (d) of this section, and the specific documents listed in subsection (d) of this section, ~~do not~~ require further Board approval, no additional Board approval to follow the take-action-on-such reallocation as provided for in those items is required. Reallocation of funding not governed by subsection (d) of this section will require Board approval.

(f) To the extent that certain programs are required to regionally allocate their annual allocations of funds, funds having originally been regionally allocated and needing to be reallocated under this section do not require ~~that subsequent~~ regional allocation be performed again.

(g) Funds made available under this section may be aggregated over a period of time prior to being reallocated.

(h) Consistent with the requirements of Tex. Gov't Code §2306.111(h), if the Department's obligation of financial assistance related to bonds is terminated prior to issuance, the assistance will be reallocated among other activities permitted by that bond issuance and any indenture associated with those bonds, as approved by the Board.

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**BOARD ACTION REQUEST**

**PROGRAMS DIVISION**

**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on an order proposing the repeal, and proposed new rule, for 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department, and an order directing their publication for public comment in the *Texas Register*

**RECOMMENDED ACTION**

**WHEREAS**, pursuant to Tex. Gov't Code §2306.053, the Texas Department of Housing and Community Affairs (the Department) is authorized to adopt rules governing the administration of the Department and its programs;

**WHEREAS**, pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist;

**WHEREAS**, staff recommends to the Board that there is a continuing need for this rule to exist, which is to require that any person or entities doing business with the Department shall notify the Department of any change in contact information, and that the Department is entitled to rely solely on the most recent contact information on file with the Department at the time any notice or other communication is sent;

**WHEREAS**, the current rule is in need of revisions to change how updated contact information is provided to the Department and make other minor non-substantive revisions;

**WHEREAS**, such revisions are being proposed through the repeal of the current rule and a simultaneous new rule to be proposed in its place; and

**WHEREAS**, such proposed rulemaking will be published in the *Texas Register* for public comment from February 25, 2022, through March 25, 2022, and subsequently returned to the Board for final adoption;

**NOW, therefore, it is hereby**

**RESOLVED**, that the Executive Director and his designees be and each of them hereby are authorized, empowered, and directed, for and on behalf of the Department, to cause the proposed actions herein in the form presented to this meeting, to be published in the *Texas Register* for public comment, and in connection therewith, make such non-substantive technical corrections as they may deem necessary to effectuate the foregoing including any requested revisions to the preambles.

## **BACKGROUND**

The Department last reviewed 10 TAC §1.22, Providing Contact Information to the Department, in September 2018. Pursuant to Tex. Gov't Code §2001.039, state agencies are required to review a rule every four years to assess whether the reasons for initially adopting the rule continue to exist. Under this rule's last review, no changes were made. Staff has determined that there is a continuing need for this rule to exist, however revisions are now recommended.

The revisions proposed change how updated contact information is provided to the Department and make other minor non-substantive revisions.

The rule, as proposed, will be released for public comment from February 25, 2022, through March 25, 2022, and returned to the Board for final approval.



**Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department**

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department. The purpose of the proposed repeal is to eliminate the current rule while replacing it with a more current version of the rule.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to the requirement that any person or entities doing business with the Department must notify the Department of any change in contact information.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand or contract the applicability of an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the repealed and new sections would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed action affects no other code, article, or statute.

§1.22 Providing Contact Information to the Department

**Attachment 2: Preamble, including required analysis, for proposed new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department**

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC Chapter 1, Administration, Subchapter A, General Policies and Procedures, §1.22 Providing Contact Information to the Department. The purpose of the proposed rule is to change how updated contact information is provided to the Department and make other minor non-substantive revisions.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to the requirement that any person or entities doing business with the Department must notify the Department of any change in contact information.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section does not create a new regulation, except that it is replacing a section being repealed simultaneously to provide for revisions.
6. The new section will not expand nor contract an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

The Department has evaluated the new section and determined that the action will not create an economic effect on small or micro-businesses or rural communities.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The new section does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the new section as to its possible effect on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section are in effect, enforcing or administering the rule does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held February 25, 2022, to March 25, 2022, to receive input on the proposed action. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by email to [bboston@tdhca.state.tx.us](mailto:bboston@tdhca.state.tx.us). ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 25, 2022.

STATUTORY AUTHORITY. The proposed new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed new section affects no other code, article, or statute.

## §1.22 Providing Contact Information to the Department

(a) Any person or entities doing business with the Department shall notify the Department, of any change in contact information, including names, addresses, telephone numbers, ~~electronic~~ email addresses and fax numbers. In addition, the notification shall include all Departments' contract numbers, project numbers or property names of any type. The notification shall be made as described in paragraphs (1) and (2) of this subsection:

~~(1) by mail: Texas Department of Housing and Community Affairs, Contact Information Update, P.O. Box 13941, Austin, Texas 78711-3941; or~~

~~(1) by email sent to the director or manager of the applicable program; or ~~electronic mail: contactinformationupdate@tdhca.state.tx.us~~~~

~~(2) sent via the CMTS Attachment System.~~

~~(b) Only in cases in which email or access to the CMTS Attachment System is not available may the notification be sent by mail to Texas Department of Housing and Community Affairs, Contact Information Update, P.O. Box 13941, Austin, Texas 78711-3941.~~

~~(c)~~ All persons or entities doing business with the Department are responsible for keeping their contact information current pursuant to subsection (a) of this section and as required by other Department rules. The Department is entitled to rely solely on the most recent contact information on file with the Department at the time any notice or other communication is sent.

~~(d)~~ The notification requirements of this section are in addition to any other change of contact information notification requirements specific to certain divisions, funding sources or programs of the Department.

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding waivers of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Supplemental Housing Tax Credit Requests from the 2022 Competitive Housing Tax Credit Ceiling

	<b>Development</b>	<b>Request</b>
19085	Gala at MacGregor	\$218,964
19088	Metro Tower Lofts	\$159,954
19238	Franklin Trails	\$40,550
19315	Hammack Creek Apts	\$156,500
20016	Reserve at Sulphur Springs	\$93,000
20018	The Park Tower	\$204,796
20190	Nuestra Senora	\$184,917
20192	Arbor Park	\$225,000
20205	Ella Grand	\$225,000
20273	La Grange Springs	\$79,483
20297	Artcraft Palms	\$184,916

**RECOMMENDED ACTION**

**WHEREAS**, 10 TAC §11.1003 establishes that up to \$5,000,000 from the 2022 Competitive Housing Tax Credit ceiling shall be made available to supplement award from the 2019 and 2020 ceilings, and that each development requesting an allocation is limited to no more than seven percent of the original award for the supplemental allocation;

**WHEREAS**, the Department timely received 35 requests for supplemental credits, and has since received 14 requests for waivers of §11.1003(b) related to the seven percent cap, and those 35 requests total \$3,962,971, inclusive of the higher amounts requested through the waivers;

**WHEREAS**, one of the aforementioned waivers was granted at the January 2022 meeting, two are being presented separately, and the remaining eleven are being presented under this request; and

**WHEREAS**, the applicants have represented that the waivers are necessary to ensure financial feasibility and otherwise satisfy 10 TAC §11.207.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waivers of 10 TAC §11.1003(b) of the 2022 QAP concerning the seven percent Maximum Supplemental Request Limit for Supplemental Housing Tax Credit Requests from the 2022 Competitive Housing Tax Credit Ceiling are hereby granted; and

**FURTHER RESOLVED**, that the Board's approval of these waivers regarding the supplemental credit requests specified herein does not constitute an award of funding, and each request for supplemental funding must still undergo the completion of underwriting, the imposing of all conditions of underwriting, the imposing of the conditions previously recommended by the Executive Award Review and Advisory Committee and those resulting from staff review, the completion of any other reviews required to ensure compliance with the applicable rules and requirements for the Competitive Housing Tax Credit Program, and that recommendations for awards will be presented at a subsequent Board meeting.

### **BACKGROUND**

Subchapter F of the 2022 Qualified Allocation Plan (QAP) allows for up to \$5,000,000 from the 2022 9% Housing Tax Credit ceiling to be allocated to awards from the 2019 and 2020 ceiling that have a demonstrated need for supplemental funding. The Department timely received 35 requests for supplemental allocations, and subsequently received 14 requests for waivers of 10 TAC §11.1003(b) relating to the 7% limit on supplemental funding.

The 35 supplemental allocation requests total \$3,962,971, inclusive of the increased amounts requested through waivers. This amount is subject to reduction as the Department's Real Estate Analysis Division underwrites each request and determines the total amount of HTC funding that each development can support while maintaining feasibility.

Of the 14 waiver requests, one was approved by the Board at the January 2022 meeting, two are presented today in separate items, and the remaining 11 are presented under this item. The following table lists all 11 developments, the funding amount requested through these waivers, the funding amount as a percentage of the initial LIHTC award, and whether the development has a current application for Multifamily Direct Loan (MFDL) funding from the Department (developments with prior MFDL funds unrelated to cost increases are not included).



	<b>Development</b>	<b>Request</b>	<b>Percent</b>	<b>Current MFDL Application</b>
19085	Gala at MacGregor	\$218,964	15.00%	
19088	Metro Tower Lofts	\$159,954	12.73%	
19238	Franklin Trails	\$40,550	8.19%	
19315	Hammack Creek Apts	\$156,500	10.43%	
20016	Reserve at Sulphur Springs	\$93,000	9.30%	
20018	The Park Tower	\$204,796	14.00%	
20190	Nuestra Senora	\$184,917	15.00%	X
20192	Arbor Park	\$225,000	15.00%	X
20205	Ella Grand	\$225,000	15.00%	X
20273	La Grange Springs	\$79,483	9.00%	
20297	Artcraft Palms	\$184,916	15.00%	

Approval of these waivers does not constitute an approval of an allocation of funding. If the Board grants any or all of these waivers, staff will proceed with reviewing them in accordance with all program rules and requirements, allowing for the increased maximum supplemental allocation granted by the Board. Additionally, staff may identify through the review process cost increases which either do not appear to meet the intention of Subchapter F, are not addressed in the Applicant’s stated reason for seeking a waiver, or otherwise require additional evaluation. Identified costs may be excluded by staff from consideration for funding. Staff will evaluate these costs individually and may present them to the Board for resolution if necessary.

Staff recommends approval of the waivers presented in this item.

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Gala at MacGregor (#19085) in Houston.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Gala at MacGregor (the Development) was approved by the Board in July 2019, for the construction of 85 multifamily units in Houston, Harris County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 15% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Gala at MacGregor is approved.

**BACKGROUND**

Gala at MacGregor is a 2019 competitive HTC award of \$1,459,758, which proposed the construction of 85 multifamily units serving the elderly population in Houston, Harris County. Of the 85 units, 10 are market-rate and 75 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Gala at MacGregor is 33% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional

supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Gala at MacGregor. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

The project has had unforeseen circumstance of escalating prices for construction materials that were outside of the Owner's control, without any willful negligence or acts of the Owner or any other Related Party. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the pandemic and are not within the Owner's control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the pandemic.

Based on the original award amount of \$1,459,758, the allowable limit for the supplemental request is \$102,183.06; however, updated financial documents submitted by the applicant indicate that an additional award of \$218,963.70, or 15% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.

January 26, 2022

Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: **# 19085 Gala at MacGregor  
Request for Waiver of Limit on Supplemental Credits.**

Dear Mr. Wilkinson:

Gala at MacGregor, LP (“Owner”) is the proposed owner of the Gala at MacGregor Apartments, an 85-unit, low-income housing tax credit apartment complex under development in Houston, Texas (“the “Project”). An application for Supplemental Credits was submitted in December 2021, and we are now requesting a waiver of Section 11.1003(b) of the 2022 QAP which limits a request for Supplemental Credits to no more than 7% of the Original allocation.

In the Project’s application for Supplemental Credits, the Development Cost Schedule supported a request for an additional \$218,963 in Supplemental Credits. Because of Section 11.1003(b), however, the request was limited to \$102,183 in Supplemental Credits. We believe that the Development Cost Schedule makes a fair presentation of the increased costs that have been incurred because of the Covid-19 Pandemic and its effects upon construction and labor costs which and supply chain breakages which have resulted in delays that have materially adversely affected the Project’s viability. Subsequent to filing our application for Supplemental Credits, the Department’s Board agreed to waive the 7% cap for another applicant who showed that Supplemental Credits exceeding 7% of the Original allocation were essential to the financial feasibility of that development (subject to confirmation by Real Estate Analysis). This change in circumstances has led us to request a waiver for similar reasons.

The Project has had unforeseen circumstance of escalating prices for construction materials that were outside of the Owner’s control, without any willful negligence or acts of the Owner or any other Related Party. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the Pandemic and are not within the Owner’s control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the Pandemic. The requested waiver of Section 11.1003(b) will assist in closing the financing gap.

In order to qualify for a waiver of Department rules, Section 11.207(1) of the QAP requires that the Applicant show that the circumstances leading to the request are not within the control of the Applicant, or that the request is due to an overwhelming need. The Pandemic was not within the control of the Applicant or any Related Party, and the cost increases resulting from the Pandemic

were not foreseeable by the Applicant at the time of filing the original tax credit application. Additionally, Section 11.207(2) of the QAP requires that a waiver request establish how granting the waiver request better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, than not granting the waiver. In the case of the Project, the Department's purposes that can better be advanced by granting this waiver request is:

(1) Texas Government Code Section 2306.001(2) and (3), require that the Department provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income, and to contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income, so the Department's granting of this waiver request will further these purposes.

Thank you for your consideration of our request. If any additional information is needed, please contact either

Sincerely,



Kit Sarai

S. Anderson Consulting, LLC  
1305 E 6<sup>th</sup> St. Suite 12  
Austin, TX 78702

**Original Application and Contact Information**

**Original Application Information**

<u>19085</u>	<u>2019</u>	<u>Gala at MacGregor</u>	<input type="checkbox"/>	<input type="checkbox"/>	Mark "X" to select the Set-aside associated with the original Application (if applicable).
Original Application Number	Year of Award	Development Name	At-Risk	USDA	

**Development Site Information**

<u>Approx 102 Carson Ct.</u>			<u>Houston</u>	Mark "X" to select the rural/urban designation associated with the original Application.
Address			City	
<u>6</u>	<u>77004</u>	<u>Harris</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Region	Zip	County	Urban	Rural

**Supplemental Credit Request Information**

<u>\$ 218,963.70</u>	<u>\$ 1,459,758.00</u>	<u>\$ 102,183.06</u>	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.
Supplemental Credit Request Amount	Original Application Award Amount	Maximum Possible Supplemental Request	

**Requester Contact Information**

<u>Amy Dosen</u>	<u>314-561-5909</u>
Name	Office Phone
<u>Adosen@gardnercapital.com</u>	<u>440-666-1813</u>
Email Address	Mobile Phone

Mailing Address:  
2501 N. Harwood St.  
 Street  
Dallas TX 75201  
 City State ZIP

**Consultant Contact Information (if applicable)**

<u>Alyssa Carpenter</u>	<u>5127891295</u>
Name	Office Phone
<u>ajcarpen@gmail.com</u>	<u>5127891295</u>
Email Address	Mobile Phone

Mailing Address:  
1305 E. 6th, Ste 12  
 Street  
Austin TX 78702  
 City State ZIP









**FINANCING:**

**CONSTRUCTION LOAN(S)<sup>3</sup>**

Interest	759,336		702,539
Loan origination fees	152,500		152,500
Title & recording fees			0
Closing costs & legal fees	144,173		144,173
Inspection fees	25,200		25,200
Credit Report			
Discount Points			
construction management	24,598		24,598
PLEASE SPECIFY - see footnote 1	102,052		102,052

**PERMANENT LOAN(S)**

Loan origination fees	47,660		
Title & recording fees	139,315		
Closing costs & legal			
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**BRIDGE LOAN(S)**

Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**OTHER FINANCING COSTS<sup>3</sup>**

Tax credit fees	90,000		
Tax and/or bond counsel			
Payment bonds			
Performance bonds			
Credit enhancement fees			
Mortgage insurance premiums			
Cost of underwriting & issuance			
Syndication organizational cost	104,394		
Tax opinion			
Refinance (existing loan payoff amt)			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Financing Cost</b>	\$1,589,228	\$0	\$1,151,062

**DEVELOPER FEES<sup>3</sup>**

Housing consultant fees <sup>4</sup>	200,000		200,000	
General & administrative				
Profit or fee	2,497,905		2,497,905	
<b>Subtotal Developer Fees</b>	\$2,697,905	\$0	\$2,697,905	12.11%

**RESERVES**

Rent-up - new funds	75,000		
Rent-up - existing reserves*			
Operating - new funds	354,000		
Operating - existing reserves*			
Replacement - new funds			
Replacement - existing reserves*			
Escrows - new funds			
Escrows - existing reserves*			
<b>Subtotal Reserves</b>	\$429,000	\$0	\$0

**\*Any existing reserve amounts should be listed on the Schedule of Sources.**

<b>TOTAL HOUSING DEVELOPMENT COSTS<sup>5</sup></b>	\$30,484,483	\$0	\$24,983,122
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BREAKDOWN MUST BE PROVIDED



## Schedule of Sources of Funds and Financing Narrative

*Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).*

### Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds			
		Bond Amount		Bond Amount			
	Tax Exempt Bonds						
	Taxable Bonds						

### Debt

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0		
Citi		\$15,250,000	4.64%	1st	\$ 4,766,000	4.25%	35	15		1st
City of Houston		\$9,400,000	1.00%	2nd	\$ 9,400,000	1.00%	na	na		2nd

### Third Party Equity

Citi	<a href="#">HTC</a> \$ 1,678,722	\$ 1,500,000		\$ 15,442,695				0.92	

### Grant

Citi	<a href="#">§11.9(d)(2)LPS Contribution</a>			\$ 45,000					

### Deferred Developer Fee

Gardner		\$ 1,348,953		\$ 830,788					

### Other

	<a href="#">Direct Loan Match</a>								

<b>Total Sources of Funds</b>		\$ 27,498,953		\$ 30,484,483					
<b>Total Uses of Funds</b>				\$ 30,484,483					

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

Citi will be providing the construction financing in the form of a construction loan. The construction loan will be in the amount of \$15,250,000 at a rate of 4.64%. Citi will also provide the permanent financing in the form of a conventional loan. The perm loan will be in the amount of \$4,766,000 at a rate of 4.25% and have a term/amortization of 15/35 years. Citi is also providing the equity at a price of \$0.92. In total, Citi will bring \$15,442,695 in equity to the project with \$1,500,000 coming in during construction. The City of Houston is providing \$9,400,000 in Disaster Relief money in the form of a CDBG loan which will be subject to surplus cashflow and be non-amortizing. It is currently estimated that \$830,788 in developer fees will be deferred.

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

*\$354,000 in operating reserves will be required as well as \$75,000 in rent-up reserves. Per the RFP, supportive services will be required and is currently budgeted at \$8,500 per year.*

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

\_\_\_\_\_  
Signature, Authorized Representative, Construction or Permanent Lender      \_\_\_\_\_  
Printed Name      \_\_\_\_\_  
Date

Telephone: \_\_\_\_\_  
Email address: \_\_\_\_\_

If a revised form is submitted, date of submission: \_\_\_\_\_

Citi Community Capital  
388 Greenwich St.,  
Trading - 6<sup>th</sup> Floor  
New York, NY 10013

T 212 723 4205



January 25, 2022

Amy Dosen  
Gardner Capital  
2501 North Harwood Street, Suite 1520  
Dallas, TX 75201

Re: Supplemental Credits for MacGregor located in Houston, TX (the "Project")

Dear Ms. Dosen:

Based on the projections provided by Gardner Capital, Citibank, N.A., ("Citi" or "Buyer") may be interested in purchasing the supplemental credits for the Project. Buyer currently estimates that the new total credits of \$16,787,220 in federal low income housing tax credits ("LIHTC" generated by the Project) could result in gross proceeds for the financing of the Project in the amount of \$15,442,698. The estimated gross proceeds are equivalent to \$0.92 for each \$1.00 of LIHTC allocated to the Project. The final amount of gross proceeds will be documented in the final and executed Second Amended and Restated Agreement of Limited Partnership, subject to the conditions listed below.

### **Development Structure**

- **Development Name.** Gala at MacGregor is owned by Gala at MacGregor, LP, a Texas Limited Partnership (the "Partnership").
- **Investor and Special Limited Partners.** Citibank, N.A. has purchased a 99.99% limited partnership interest in the Partnership. A corporation affiliated with Citi is also a special limited partner in the Partnership with certain restricted management rights (the "Special Limited Partner").

Buyer shall not pay, or be liable for, any fees or provide any other financial or other substantive benefit to a developer unless all such fees or benefits are fully and completely disclosed in an executed Letter of Intent, if one is entered into subsequent to this letter.

This letter is not intended to be, and shall not constitute a commitment to lend, syndicate a financing, underwrite or purchase securities or LIHTC associated with the Project, commit capital, or provide or arrange any portion of the financing for the Project. Such obligations would arise only under separate written agreements acceptable to Citi in its sole discretion. Furthermore, any such commitments would be subject to, among other things, (a) the satisfactory completion of Citi's customary due diligence review; (b) approval by Citi internal committees; (c) the receipt of any necessary governmental, contractual and regulatory consents or approvals in connection with the Project and the related financings; (d) the negotiation and documentation of the financings, including the terms and conditions of the financing, in form and substance satisfactory to Citi and its counsel; and (e)

there not having occurred any disruption of or change in financial, banking or capital market conditions that, in Citi's judgment, could make it inadvisable or impractical to proceed with the Purchase.

Neither Citi nor any of its affiliates shall have any liability (whether direct or indirect, or in contract, tort or otherwise) to Gardner Capital, the Project or any other person, claiming through Gardner Capital or the Project, as the case may be, for or in connection with the delivery of this letter.

In connection with the proposed Purchase, Citi will be acting solely as a principal and not as your agent advisor or fiduciary. Citi has not assumed a fiduciary responsibility with respect to the proposed Purchase, and nothing in this letter or in any prior relationship between Gardner Capital and Citi will be deemed to create an advisory, fiduciary or agency relationship between us in respect of the Project or the proposed Purchase. Gardner Capital should consider carefully whether it would like to engage an independent advisor to represent or otherwise advise it in connection with the Project, if it has not already done so.

If there are any questions regarding these estimated numbers, please contact the undersigned.

Sincerely,

CITIBANK, N.A.

DocuSigned by:



195009C6EA714E6...  
Mark Sherman

Vice President

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Metro Tower Lofts (#19088) in Lubbock.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Metro Tower Lofts (the Development) was approved by the Board in July 2019, for the construction of 89 multifamily units in Lubbock, Lubbock County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 15% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Metro Tower Lofts is approved.

**BACKGROUND**

Metro Tower Lofts is a 2019 competitive HTC award of \$1,256,699, which proposed the construction of 89 multifamily units serving the general population in Lubbock, Lubbock County. Of the 89 units, 14 are market-rate and 75 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Metro Tower Lofts is 93% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional



supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Metro Tower Lofts. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

Because this is an existing enclosed building that uses elevators to transport people, the ability to keep people socially distant has been limited. We have shut down construction three times to stop COVID-19 outbreaks and clean the work area. These delays alone added two months to the construction schedule. The property has 4 elevator shafts, of these two were in working order at Application. We planned to use one to transport materials and the other for people. The materials elevator broke down in August of 2021. We ordered replacement parts right away and these parts did not arrive until five months later. This left the contractor operating with one elevator, which significantly slowed progress.

During construction, the existing water flow and the fire pump, fire pump controller, and generator were deemed inadequate by the local fire department inspector. At application, the City of Lubbock estimated that there was adequate water pressure to supply the building. However, testing showed otherwise. The City had to redesign and install new water mains to create adequate pressure to supply the building. This work is underway now, though it could have been completed earlier if not for the pandemic.

Metro Tower Lofts has felt substantive pressure from the shut down at the beginning of 2020 and associated extreme shortages and price increases in the lumber market, drywall, and other construction materials. This material delivery slowdown was exacerbated by long waiting periods associated with the availability of Lubbock's City Inspector and the shortage of labor.

Based on the original award amount of \$1,256,699, the allowable limit for the supplemental request is \$87,968; however, updated financial documents submitted by the applicant indicate that an additional award of \$159,954, or 15% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.



January 26, 2022

Colin Nickells, Competitive Housing Tax Credit Manager  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

*RE: Waiver Request Supplemental Credits 19088 Metro Tower Lofts, Lubbock, TX*

Dear Mr. Nickells,

As directed in your guidance sent January 21, 2022, please accept this waiver request with attachments related to the Supplemental Credit request for Metro Tower Lofts.

### **Recent Unforeseen Circumstances**

Metro Tower Lofts is a unique tax credit development located in downtown Lubbock. The historic rehabilitation of the tallest building in Lubbock has distinctive characteristics not found in a traditional garden style apartment complex. First and foremost, because this is an existing enclosed building that uses elevators to transport people, the ability to keep people socially distant has been limited. We have shut down construction three times to stop Covid outbreaks and clean the work area. These delays alone added two months to the construction schedule.

More specifically, the elevators and fire pump for the building, which are difficult to manage in good times, have presented numerous delays to the project. The property has 4 elevator shafts, of these two were in working order at Application. We planned to use one to transport materials and the other for people. The materials elevator broke down in August of 2021. We ordered replacement parts right away and these parts did not arrive until five months later. This left the contractor operating with one elevator which significantly slowed progress. This also had a cascading effect on the various crews that began to reschedule other work and effectively walked off this site for a period. As of today, OTIS (elevator company) is pushing to complete work so that we have two working elevators by the end of February. The remaining two elevators will take at least another 90 days to bring up to our requirements for operations.

Our second major issue is water flow and the fire pump, fire pump controller, and generator. During construction, the existing equipment was deemed inadequate by the local fire department inspector. At application, the City of Lubbock estimated that there was adequate water pressure to supply the building. However, testing showed otherwise. This meant the City had to redesign and install new water mains to create adequate pressure to supply the building. This work is underway now. Once that is complete, we will be able to test our new jockey pump to see if the new system we've installed will pass the Fire Department inspection. This could have been completed earlier if not for Covid. The Pressurization Motor was on back order for 6-months, meaning we have not been able to test the pressurization of a new stairwell. (we can't get a CO without passing these tests).

If for some reason, these new parts do not work together, it could create an additional 4-to-6-month delay. This means that the earliest we could have even a partial certificate of occupancy is the end of March and

at worst September. All of these delays increase our interest carry costs and insurance costs as well. As of today, interest costs are nearly \$50,000 per month.

In addition to the premium associated with the elevator and fire pump issues, Metro Tower Lofts has felt substantive pressure from the shut down at the beginning of 2020 and associated extreme shortages and price increases in the lumber market, drywall, and other construction materials. This material delivery slowdown was exacerbated by long waiting periods associated with the availability of Lubbock's City Inspector and the shortage of labor.

Change orders since December have added more than \$250,000 to the project. A copy is enclosed that shows that a flooring tile "upgrade" adds \$129,684 to the project. This is not an upgrade in the sense that we ordered better tile, it is a change due to the fact that what was originally specified in 2019 is no longer available and we had to change tile to something that is available. Please bear in mind that as a historic building our choices are limited because they must meet with approval from the Historic Preservation specialist.

Finally, as you can imagine we cannot allow tenants to occupy a building with nonfunctional fire equipment and elevators. The equipment delay has in turn meant that we cannot start lease-up, which will ultimately impact the development through downward equity adjustors. At this time, the cost of these is in excess of \$600,000. Emails from our equity providers are attached and these are shown in the Sources and Uses.

### **Percent Complete**

The construction of Metro Tower Lofts is 93% complete as quantified on the last pay application. The two items discussed above are the barriers to completion. Unfortunately, there may be even more cost increases related to the equipment if the equipment we have does not work or becomes delayed further.

### **Waiver Authority**

The Development Owner requests that TDHCA permit Owner to request supplemental tax credits more than 7% of the amount of credits in its original application. 10 TAC § 11.207 sets forth the requirements for a rule waiver as follows:

1. The need for the waiver was neither foreseeable nor preventable by Owner. A direct result of COVID-19 and the subsequent shutdowns, the Development faced increased construction costs, construction and inspection delays, and its own work stoppages when COVID-19 spread through the construction crew. Even with extreme precautions including buying futures for certain materials, these delays and increases were beyond the control of the Owner.
2. Granting the waiver better serves the policies and purposes of serving low-income tenants as set forth in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701. If approved, the Development will be completed and will provide for 89 residential units in downtown Lubbock. Therefore, allowing this waiver TDHCA meets the requirement set forth in §11.207(2) of the 2022 QAP.

If you need additional information, please do not hesitate to contact me at 512/698-3369 or sarah@structuretexas.com.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah', with a long, sweeping horizontal line extending to the right.

Sarah Andre  
Consultant to the Project

Attachments include the following:

- Original Application and Contact Information Page
- Development Cost Schedule
- Sources and Uses Exhibit
- January Change Order
- Equity Email Stating Credit Adjustors
- Equity Letter for Additional Credits

## Original Application and Contact Information

### Original Application Information

19088 2019 Metro Tower Lofts  
Original Application Number Year of Award Development Name

At-Risk  USDA Mark "X" to select the Set-aside associated with the original Application (if applicable).

### Development Site Information

1220 Broadway, 1219 Broadway, 1301 10th Street and 1402 Main Street  
Address City Lubbock

1 79401 Lubbock  
Region Zip County

Urban  Rural Mark "X" to select the rural/urban designation associated with the original Application.

### Supplemental Credit Request Information

\$ 159,954.00 \$ 1,256,699.00 \$ 87,968.93  
Supplemental Credit Request Amount Original Application Award Amount Maximum Possible Supplemental Request

Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.

### Requester Contact Information

Jacob Mooney 913-638-2500  
Name Office Phone  
jmooney@mrecapital.com 913-638-2500  
Email Address Mobile Phone

#### Mailing Address:

10777 Barkley Street, Suite 140  
Street City Overland Park State KS ZIP 66211

### Consultant Contact Information (if applicable)

Sarah Andre 5126983369  
Name Office Phone  
sarah@structuretexas.com 5126983369  
Email Address Mobile Phone

#### Mailing Address:

1301 Chicon Street Suite 101  
Street City Austin State Texas ZIP 78702

**Schedule of Sources of Funds and Financing Narrative**

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

**Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)**

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds				
		Bond Amount		Bond Amount				
TDHCA	Mortgage Revenue Bond							
	Tax Exempt Bonds							
	Taxable Bonds							

**Debt**

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amortization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0		
Horizon Bank	Conventional Loan	\$17,700,000	4.00%	1						
Cedar Rapids					\$ 2,700,000	4.36%	40	15		1
Cedar Rapids Bridge Loan	Conventional Loan	\$150,000	7.00%	2	\$ 150,000	7.00%	7	7		2

**Third Party Equity**

Alliant	HTC	\$ 1,416,653	\$ 1,093,119		\$ 12,211,692				0.87 & .80	
Federal Historic Credits- Alliant					\$ 3,190,612				0.885	
State Historic Credits- Monarch					\$ 4,123,461				0.915	

**Grant**

	\$11.9(d)(2)LPS Contribution									
Downward Adjustors - Fed Historic					\$ (276,276)					
Downward Adjustor - Historic					\$ (414,179)					

**Deferred Developer Fee**

Deferred Developer Fee					\$ 346,488					2
Additional Deferred Fee										

**Other**

	Direct Loan Match									
		\$ 57,880								
<b>Total Sources of Funds</b>		\$ 19,000,999			\$ 22,031,798					
<b>Total Uses of Funds</b>					\$ 22,031,798					

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).

See Attached

Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.

Replacement reserves are scheduled at 300 per unit per year. This is reflected in the LPA as well. There are no existing reserve accounts.

Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

There are no operating subsidies associated with this development.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

Signature, Authorized Representative, Construction or Permanent Lender

Printed Name

Date

Telephone:

Email address:

If a revised form is submitted, date of submission:

12/6/21

1/26/22

3:18 PM











**Schedule of Sources of Funds and Financing Narrative**

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

**Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)**

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds				
		Bond Amount		Bond Amount				
TDHCA	Mortgage Revenue Bond							
	Tax Exempt Bonds							
	Taxable Bonds							

**Debt**

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amortization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0		
Horizon Bank	Conventional Loan	\$17,700,000	4.00%	1						
Cedar Rapids					\$ 2,700,000	4.36%	40	15		1
Cedar Rapids Bridge Loan	Conventional Loan	\$150,000	7.00%	2	\$ 150,000	7.00%	7	7		2

**Third Party Equity**

Alliant	HTC	\$ 1,416,653	\$ 1,093,119		\$ 12,211,692				0.87 & .80	
Federal Historic Credits- Alliant					\$ 3,190,612				0.885	
State Historic Credits- Monarch					\$ 4,123,461				0.915	

**Grant**

	\$11.9(d)(2)LPS Contribution									
Downward Adjustors - Fed Historic					\$ (276,276)					
Downward Adjustor - Historic					\$ (414,179)					

**Deferred Developer Fee**

Deferred Developer Fee					\$ 596,488					2
Additional Deferred Fee										

**Other**

	Direct Loan Match									
		\$ 57,880								
<b>Total Sources of Funds</b>		\$ 19,000,999			\$ 22,281,798					
<b>Total Uses of Funds</b>					\$ 22,281,798					

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).

See Attached

Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.

Replacement reserves are scheduled at 300 per unit per year. This is reflected in the LPA as well. There are no existing reserve accounts.

Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

There are no operating subsidies associated with this development.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

Signature, Authorized Representative, Construction or Permanent Lender \_\_\_\_\_ Printed Name \_\_\_\_\_ Date \_\_\_\_\_

Telephone: \_\_\_\_\_

Email address: \_\_\_\_\_

If a revised form is submitted, date of submission: 12/6/21



**AIA**<sup>®</sup>

# Document G701™ – 2017

## Change Order

**PROJECT:** *(Name and address)*

Metro Tower

**CONTRACT INFORMATION:**

Contract For: General Construction

Date: 03-16-20

**CHANGE ORDER INFORMATION:**

Change Order Number: 005

Date: 01-06-2022

**OWNER:** *(Name and address)*

Metro Tower Housing Partners, LP

10777 Barkley St, Suite 140

Overland Park, KS 66211

**ARCHITECT:** *(Name and address)*

Wallace Architects, LLC

302 Campusview Dr, Suite 208

Columbia, MO 65201

**CONTRACTOR:** *(Name and address)*

Eastland Properties, LLC

PO Box 51916

Amarillo, TX 79159

**THE CONTRACT IS CHANGED AS FOLLOWS:**

*(Insert a detailed description of the change and, if applicable, attach or reference specific exhibits. Also include agreed upon adjustments attributable to executed Construction Change Directives.)*

\$27,148.47 Open elevator equipment room and install double doors

\$25,033.16 Install stairs to elevator room

\$6,861.56 Add hatch to 3rd floor roof

\$13,363.46 Pole scaffolding on roof

\$5,038.60 Change 03 unit bathroom doors

\$500.00 Plumbing change to move 1/2 walls

\$382,852.26 Vinyl tile upgrade on floors 5 thru 18

<\$253,168.00> Original vinyl tile deduct floors 5 thru 18

\$5,302.18 Remove 2/4 doors and install 2/2 doors in 04 bathrooms

\$11,290.00 Add vanities drawer bases and change tops

\$22,488.31 1st floor office changes

\$9,040.00 Add emergency and exit lights in stairs floors 4 thru 20

\$3,923.20 Corridor historic door fire rate louvers and door slabs

\$6,806.04 Trash room door replacement to 3/0

these four items were related to changes in code by the City of Lubbock between design and inspection.

Flooring, Vanity Tops and 1st Floor Changes are due to lack of material availability

\$266,479.24 TOTAL

\$15,988.75 General Requirements

\$5,329.58 Overhead

\$15,988.75 Profit

**\$303,786.32 TOTAL**

The original Contract Sum was

\$ 12,789,065.00

The net change by previously authorized Change Orders

\$ 982,839.47

The Contract Sum prior to this Change Order was

\$ 13,771,904.47

The Contract Sum will be increased by this Change Order in the amount of

\$ 303,786.32

The new Contract Sum including this Change Order will be

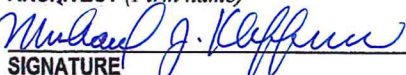
\$ 14,075,690.79

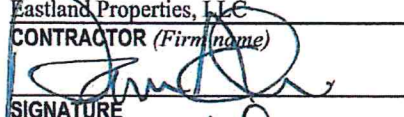
The Contract Time will be increased by Zero (90) days.

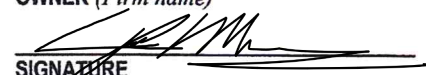
The new date of Substantial Completion will be March 30 2022

**NOTE:** This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Wallace Architects, LLC  
ARCHITECT (Firm name)  
  
SIGNATURE  
Michael J. Klaffner, Mgr.  
PRINTED NAME AND TITLE  
1/18/2022  
DATE

Eastland Properties, LLC  
CONTRACTOR (Firm name)  
  
SIGNATURE  
Ramon Alvarez  
PRINTED NAME AND TITLE  
1-18-22  
DATE

Metro Tower Housing Partners, LP  
OWNER (Firm name)  
  
SIGNATURE  
Jacob Mooney, Manager  
PRINTED NAME AND TITLE  
1/20/2022  
DATE



Sarah Andre &lt;sarah@structuretexas.com&gt;

---

**Fwd: FW: Metro Tower Draw Request 20**

1 message

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**Sarah Andre** <sarah@structuretexas.com>  
To: Sarah Andre <sarah@structuretexas.com>

Tue, Jan 25, 2022 at 9:03 PM

See below.

Jake Mooney

10777 Barkley Street, Ste. 140

Overland Park, KS 66211

[jmooney@mrecapital.com](mailto:jmooney@mrecapital.com)

C: 1-913-638-2500

---

**From:** Karla De Leon <[karla.deleon@alliantcapital.com](mailto:karla.deleon@alliantcapital.com)>**Sent:** Tuesday, January 4, 2022 11:22 AM**To:** [jmooney@mrecapital.com](mailto:jmooney@mrecapital.com)**Subject:** RE: Metro Tower Draw Request 20

Hi Jake,

Hope you enjoyed your holidays and happy new year. With creating a sensitivity model based on the information below, I wanted to convey a few questions/comments to see how that changes any of the proposal.

- There were a few discrepancies between the LPA and the worksheet provided in terms of investor ownership and credit pricing.
  - 100% ownership was assumed in the worksheet for Fed LIHTCs and Fed Hx credits in contrast to the 99.98% we're taking as noted in the LPA.
  - \$0.87 was also noted for Fed Hx credit pricing in the model, but the actual pricing per our model, as well as the LPA, is \$0.885.
- There's a downward Fed Hx adjustor of \$276,276.
- There's also a downward State Hx adjustor of \$414,179
- Adjustments were made to the rents and expenses. Can you confirm if the \$12,000 Master Lease income is buried in the \$21,360 shown under the "Worksheet" tab? We are assuming it is buried at the moment.
- We originally showed a 6% property management fee, but we see it modeled at 5%. Is that 1% being considered as a subordinate prop fee, or has it been decreased to 5% completely.

Thanks,





**Karla De Leon** | Asset Manager

**ALLIANT CAPITAL, LTD.**

21600 Oxnard Street, Suite 1200 | Woodland Hills, CA 91367

D (818) 449-5803 | O (818) 668-6800

[karla.deleon@alliantcapital.com](mailto:karla.deleon@alliantcapital.com) | [alliantcompany.com](http://alliantcompany.com)



January 26, 2021

Metro Tower Housing, LLC  
10777 Barkley Street, Suite 140  
Overland Park, KS 66211  
Attention: Jacob Mooney

**Re: Metro Tower Lofts, Lubbock, Texas**

Dear Mr. Mooney:

Thank you for your continued partnership with Alliant Capital, Ltd. ("Alliant") in Metro Tower Housing Partners, LP, a Texas limited partnership (the "Partnership"). We understand that the Partnership is applying for a supplemental allocation of Federal LIHTC to cover additional project costs. The additional costs have also resulted in an increase in expected Federal Historic Tax Credits.

Based on the modifications to the overall project budget and projected credits, Alliant will:

1. Purchase both the originally projected and the additional Federal Historic Tax Credits for \$.885 per dollar of available credit resulting in total Federal Historic equity of \$3,190,612 based on an estimated historic eligible basis of \$18,026,057.
2. Purchase the additional \$159,954 annual allocation Federal LIHTC for \$.80 per dollar of Federal LIHTC. The total revised Federal LIHTC equity is projected to be \$12,211,692.

All terms of our existing Partnership Agreement remain in effect. We will amend the terms to modify the capital contributions upon receipt of your supplemental tax credit award.

Very truly yours,

Alliant Capital, Ltd.

By: Alliant, Inc., its General Partner

A handwritten signature in black ink, appearing to read "Jennifer Erixon".

By: \_\_\_\_\_  
Jennifer Erixon, Senior Vice President



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Franklin Trails (#19238) in Franklin.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Franklin Trails (the Development) was approved by the Board in July 2019, for the construction of 38 multifamily units in Franklin, Robertson County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 8.2% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Franklin Trails is approved.

**BACKGROUND**

Franklin Trails is a 2019 competitive HTC award of \$495,000, which proposed the construction of 124 multifamily units serving the elderly population in Franklin, Robertson County. All 38 units are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Franklin Trails is 72% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional

supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Franklin Trails. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

The project has had unforeseen circumstances of escalating prices for construction materials that were outside of the Owner's control, without any willful negligence or acts of the Owner or any other Related Party. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the pandemic and are not within the Owner's control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the pandemic.

Based on the original award amount of \$495,000, the allowable limit for the supplemental request is \$34,650; however, updated financial documents submitted by the applicant indicate that an additional award of \$40,550, or 8.2% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.

January 26, 2022

Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: **# 19238 Franklin Trails**  
**Request for Waiver of Limit on Supplemental Credits.**

Dear Mr. Wilkinson:

Franklin Trails, LP (“Owner”) is the proposed owner of the Franklin Trails Apartments, an 38-unit, 100% low-income housing tax credit apartment complex under development in Franklin, Texas (“the “Project”). An application for Supplemental Credits was submitted in December 2021, and we are now requesting a waiver of Section 11.1003(b) of the 2022 QAP which limits a request for Supplemental Credits to no more than 7% of the Original allocation.

In the Project’s application for Supplemental Credits, the Development Cost Schedule supported a request for an additional \$40,550 in Supplemental Credits. Because of Section 11.1003(b), however, the request was limited to \$34,650 in Supplemental Credits. We believe that the Development Cost Schedule makes a fair presentation of the increased costs that have been incurred because of the Covid-19 Pandemic and its effects upon construction and labor costs which and supply chain breakages which have resulted in delays that have materially adversely affected the Project’s viability. Subsequent to filing our application for Supplemental Credits, the Department’s Board agreed to waive the 7% cap for another applicant who showed that Supplemental Credits exceeding 7% of the Original allocation were essential to the financial feasibility of that development (subject to confirmation by Real Estate Analysis). This change in circumstances has led us to request a waiver for similar reasons.

The Project has had unforeseen circumstance of escalating prices for construction materials that were outside of the Owner’s control, without any willful negligence or acts of the Owner or any other Related Party. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the Pandemic and are not within the Owner’s control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the Pandemic. The requested waiver of Section 11.1003(b) will assist in closing the financing gap.

In order to qualify for a waiver of Department rules, Section 11.207(1) of the QAP requires that the Applicant show that the circumstances leading to the request are not within the control of the Applicant, or that the request is due to an overwhelming need. The Pandemic was not within the control of the Applicant or any Related Party, and the cost increases resulting from the Pandemic

were not foreseeable by the Applicant at the time of filing the original tax credit application. Additionally, Section 11.207(2) of the QAP requires that a waiver request establish how granting the waiver request better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, than not granting the waiver. In the case of the Project, the Department's purposes that can better be advanced by granting this waiver request is:

(1) Texas Government Code Section 2306.001(2) and (3), require that the Department provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income, and to contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income. Franklin Trails will be 100% restricted to low-income, very low-income and extremely low-income families, so the Department's granting of this waiver request will further these purposes.

Thank you for your consideration of our request. If any additional information is needed, please contact either

Sincerely,



Kit Sarai

S. Anderson Consulting, LLC  
1305 E 6<sup>th</sup> St. Suite 12  
Austin, TX 78702

## Original Application and Contact Information

### Original Application Information

<u>19238</u>	<u>2019</u>	<u>Franklin Trails</u>	<input type="checkbox"/>	<input type="checkbox"/>	
Original Application Number	Year of Award	Development Name	At-Risk	USDA	Mark "X" to select the Set-aside associated with the original Application (if applicable).

### Development Site Information

<u>S side of W. Decherd St., w of Hearne St.</u>					<u>Franklin</u>
Address					
<u>8</u>	<u>77859</u>	<u>Robertson</u>		<input checked="" type="checkbox"/>	
Region	Zip	County	Urban	Rural	Mark "X" to select the rural/urban designation associated with the original Application.

### Supplemental Credit Request Information

<u>\$ 40,550.00</u>	<u>\$ 495,000.00</u>	<u>\$ 34,650.00</u>	
Supplemental Credit Request Amount	Original Application Award Amount	Maximum Possible Supplemental Request	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.

### Requester Contact Information

<u>Ryan Hamilton</u>	<u>417-882-1701</u>	
Name	Office Phone	
<u>ryanhamilton@hamiltoncorporation.com</u>	<u>417-882-1701</u>	
Email Address	Mobile Phone	
Mailing Address:		
<u>3556 S. Culpepper Circle, Ste 4</u>		
Street		
<u>Springfield</u>	<u>MO</u>	<u>65804</u>
City	State	ZIP

### Consultant Contact Information (if applicable)

<u>Alyssa Carpenter</u>	<u>5127891295</u>	
Name	Office Phone	
<u>ajcarpen@gmail.com</u>	<u>5127891295</u>	
Email Address	Mobile Phone	
Mailing Address:		
<u>1305 E. 6th, Ste 12</u>		
Street		
<u>Austin</u>	<u>TX</u>	<u>78702</u>
City	State	ZIP





**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

M1 is providing the construction loan for the development in the amount of \$3,200,000 at an interest rate of 5.50%. TDHCA is providing the permanent financing in the form of a direct loan. The direct loan is currently estimated at \$2,850,000 at a rate of 2.5% and a term of 30 years with a 30 year amortization period. Aegon is providing the equity for the project at a price of \$0.84. The total amount of equity is \$4,498,170 with \$1,124,543 coming in during construction. It's currently estimated that \$325,551 in developer fees will be deferred. Springfield Roofing Systems is providing the match in the amount of \$147,900.

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

*\$137,801 in operating reserves are currently being estimated.*

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

\_\_\_\_\_  
Signature, Authorized Representative, Construction or Permanent Lender

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Telephone: \_\_\_\_\_

Email address: \_\_\_\_\_

If a revised form is submitted, date of submission: \_\_\_\_\_



January 25, 2022

**Via E-mail**

Franklin Trails GP, LLC  
c/o Four Corners Development, LLC  
3556 S. Culpepper, Suite 4  
Springfield, MO 65804  
Attention: J. Ryan Hamilton

**RE: Franklin Trails senior housing development, Franklin, Texas (the “Project”)**

Ladies and Gentlemen:

Reference is hereby made to that certain Amended and Restated Limited Partnership Agreement dated as of December 1, 2020 (as amended from time to time, the “Partnership Agreement”) of Franklin Trails, LP (the “Partnership”), the owner of the above reference Project. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Partnership Agreement.


It is Aegon’s understanding that Texas Department of Housing and Community Affairs (“TDHCA”) is currently accepting requests for 2022 supplemental 9% allocations of Federal Housing Tax Credits to augment the competitive awards from the 2020 ceiling. Aegon understands that applicants may not request more than 8.192% more than their original credit allocation. Accordingly, the maximum possible supplemental request for the Project is \$40,550 per annum based on the Project’s original application award amount of \$495,000.

On behalf of the Investor Limited Partner of the Partnership, please be advised Aegon is prepared to purchase additional supplemental tax credits at a price not to exceed \$0.84 per credit, subject to the terms of the Partnership Agreement.

If you have any questions regarding the above, please do not hesitate to contact Katie Bovy at (319) 355-4373 or by e-mail at [kbovy@aegonam.com](mailto:kbovy@aegonam.com)

Sincerely,

AEGON USA Realty Advisors, LLC

By:   
Blaine Shaffer, Vice President

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Hammack Creek Apartments (#19315) in Kennedale.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Hammack Creek Apartments (the Development) was approved by the Board in July 2019, for the construction of 107 multifamily units in Kennedale, Tarrant County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 10.4% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Hammack Creek Apartments is approved.

**BACKGROUND**

Hammack Creek Apartments is a 2019 competitive HTC award of \$1,500,000, which proposed the construction of 124 multifamily units serving the general population in Kennedale, Tarrant County. Of the 86 units, 21 are market-rate and 86 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Hammack Creek Apartments is 64% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Hammack Creek Apartments. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

The project has had unforeseen circumstances of escalating prices for construction materials that were outside of the Owner's control, without any willful negligence or acts of the Owner or any other Related Party. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the pandemic and are not within the Owner's control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the pandemic.

Based on the original award amount of \$1,500,000, the allowable limit for the supplemental request is \$105,000; however, updated financial documents submitted by the applicant indicate that an additional award of \$156,500, or 10.4% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.

January 26, 2022

Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: **# 19315 Hammack Creek Apartments**  
**Request for Waiver of Limit on Supplemental Credits.**

Dear Mr. Wilkinson:

KD Hammack Creek Housing, LP (“Owner”) is the proposed owner of the Franklin Trails Apartments, an 112-unit, low-income housing tax credit apartment complex under development in Kennedale, Texas (“the “Project”). An application for Supplemental Credits was submitted in December 2021, and we are now requesting a waiver of Section 11.1003(b) of the 2022 QAP which limits a request for Supplemental Credits to no more than 7% of the Original allocation.

In the Project’s application for Supplemental Credits, the Development Cost Schedule supported a request for an additional \$156,500 in Supplemental Credits. Because of Section 11.1003(b), however, the request was limited to \$105,000 in Supplemental Credits. We believe that the Development Cost Schedule makes a fair presentation of the increased costs that have been incurred because of the Covid-19 Pandemic and its effects upon construction and labor costs which and supply chain breakages which have resulted in delays that have materially adversely affected the Project’s viability. Subsequent to filing our application for Supplemental Credits, the Department’s Board agreed to waive the 7% cap for another applicant who showed that Supplemental Credits exceeding 7% of the Original allocation were essential to the financial feasibility of that development (subject to confirmation by Real Estate Analysis). This change in circumstances has led us to request a waiver for similar reasons.

The Project has had unforeseen circumstance of escalating prices for construction materials that were outside of the Owner’s control, without any willful negligence or acts of the Owner or any other Related Party. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the Pandemic and are not within the Owner’s control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the Pandemic. The requested waiver of Section 11.1003(b) will assist in closing the financing gap.

In order to qualify for a waiver of Department rules, Section 11.207(1) of the QAP requires that the Applicant show that the circumstances leading to the request are not within the control of the Applicant, or that the request is due to an overwhelming need. The Pandemic was not within the control of the Applicant or any Related Party, and the cost increases resulting from the Pandemic

were not foreseeable by the Applicant at the time of filing the original tax credit application. Additionally, Section 11.207(2) of the QAP requires that a waiver request establish how granting the waiver request better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, than not granting the waiver. In the case of the Project, the Department's purposes that can better be advanced by granting this waiver request is:

(1) Texas Government Code Section 2306.001(2) and (3), require that the Department provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income, and to contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income, so the Department's granting of this waiver request will further these purposes.

Thank you for your consideration of our request. If any additional information is needed, please contact either

Sincerely,

Kit Sarai

S. Anderson Consulting, LLC  
1305 E 6<sup>th</sup> St. Suite 12  
Austin, TX 78702

## Original Application and Contact Information

### Original Application Information

<u>19315</u>	<u>2019</u>	<u>Hammack Creek Apartments</u>	<input type="checkbox"/>	<input type="checkbox"/>	Mark "X" to select the Set-aside associated with the original Application (if applicable).
Original Application Number	Year of Award	Development Name	At-Risk	USDA	

### Development Site Information

<u>NEQ Kennedale Sublett Rd. and Kennedale Pkwy.</u>				<u>Kennedale</u>		Mark "X" to select the rural/urban designation associated with the original Application.
Address				City		
<u>3</u>	<u>76060</u>	<u>Tarrant</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Urban	Rural
Region	Zip	County				

### Supplemental Credit Request Information

<u>\$ 156,500.00</u>	<u>\$ 1,500,000.00</u>	<u>\$ 105,000.00</u>	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.
Supplemental Credit Request Amount	Original Application Award Amount	Maximum Possible Supplemental Request	

### Requester Contact Information

<u>Deepak P. Sulakhe</u>		<u>214-432-7610</u>
Name		Office Phone
<u>dsulakhe@omhousing.com</u>		<u>214-432-7610</u>
Email Address		Mobile Phone
Mailing Address:		
<u>5033 Brookview Dr.</u>		
Street		
<u>Dallas</u>	<u>TX</u>	<u>75220</u>
City	State	ZIP

### Consultant Contact Information (if applicable)

<u>Alyssa Carpenter</u>		<u>5127891295</u>
Name		Office Phone
<u>ajcarpen@gmail.com</u>		<u>5127891295</u>
Email Address		Mobile Phone
Mailing Address:		
<u>1305 E. 6th, Ste 12</u>		
Street		
<u>Austin</u>	<u>TX</u>	<u>78702</u>
City	State	ZIP



## Development Cost Schedule

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Supplemental Credit Requests must complete the Total Cost column. Direct Loan Applicants should review costs ineligible for reimbursement with Direct Loan funds in 10 TAC §13.3(e), while all HTC Applicants must complete the Eligible Basis columns and the Requested Credit calculation below:

TOTAL DEVELOPMENT SUMMARY		
Total Cost	Eligible Basis (If Applicable)	
	Acquisition	New/Rehab.

Scratch Paper/Notes

**ACQUISITION**

Site acquisition cost	748,750		
Existing building acquisition cost	0		
Closing costs & acq. legal fees	82,500		
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Acquisition Cost</b>	<b>\$831,250</b>	<b>\$0</b>	<b>\$0</b>

**OFF-SITES<sup>2</sup>**

Off-site concrete			
Storm drains & devices			
Water & fire hydrants			
Off-site utilities	211,767		
Sewer lateral(s)			
Off-site paving			
Off-site electrical			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Off-Sites Cost</b>	<b>\$211,767</b>	<b>\$0</b>	<b>\$0</b>

**ALL OFF-SITE COSTS REQUIRE DOCUMENTATION. THOSE ENTERED IN BASIS REQUIRE MORE DOCUMENTATION!!! SEE 10 TAC §11.204(8)(E)(ii).**

**SITE WORK<sup>3</sup>**

Demolition			
Asbestos Abatement (Demolition Only)			
Detention			
Rough grading	580,637		580,637
Fine grading	21,840		21,840
On-site concrete	114,376		114,376
On-site electrical	46,000		46,000
On-site paving	590,083		590,083
On-site utilities	646,212		646,212
Decorative masonry	83,000		83,000
Bumper stops, striping & signs	12,000		12,000
retaining wall and surveying	168,893		168,893
<b>Subtotal Site Work Cost</b>	<b>\$2,263,041</b>	<b>\$0</b>	<b>\$2,263,041</b>

**SITE AMENITIES**

Landscaping	196,452		196,452
Pool and decking	200,000		200,000
Athletic court(s), playground(s)	35,000		35,000
Fencing	208,504		208,504
bench, trash rec., bike rack	23,000		23,000
<b>Subtotal Site Amenities Cost</b>	<b>\$662,956</b>	<b>\$0</b>	<b>\$662,956</b>

**BUILDING COSTS\*:**

Concrete	902,602		902,602
Masonry	741,652		741,652
Metals	325,196		325,196
Woods and Plastics	2,693,093		2,693,093
Thermal and Moisture Protection	248,177		248,177
Roof Covering	154,001		154,001
Doors and Windows	658,696		658,696
Finishes	1,369,034		1,369,034
Specialties	113,318		113,318
Equipment	198,778		198,778
Furnishings	383,000		383,000
Special Construction	278,916		278,916
Conveying Systems (Elevators)	0		
Mechanical (HVAC; Plumbing)	1,274,270		1,274,270
Electrical	921,950		921,950

Describe for MFDL



Individually itemize costs below:

Detached Community Facilities/Building	311,223		311,223
Carports and/or Garages	55,000		55,000
Lead-Based Paint Abatement			
Asbestos Abatement (Rehabilitation Only)			
Structured Parking			
Commercial Space Costs			
Insurance, warranties	252,814		252,814
<b>Subtotal Building Costs Before 11.9(e)(2)</b>	<b>\$10,881,720</b>	<b>\$0</b>	<b>\$10,881,720</b>

e.g. Community spaces not exclusively used by tenants/tenant guests

**Voluntary Eligible Building Costs (After 11.9(e)(2))\***  
Enter amount to be used to achieve desired score.

\$0.00 psf

If NOT seeking to score points under §11.9(e)(2), E77:E78 should remain BLANK. True eligible building cost should be entered in line items E33:E74. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E77:E78 that produces the target cost per square foot in D77:D78. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

<b>TOTAL BUILDING COSTS &amp; SITE WORK (including site amenities)</b>	<b>\$13,807,717</b>	<b>\$0</b>	<b>\$13,807,717</b>
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Contingency	4.08%	\$572,412	572,412
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<b>TOTAL HARD COSTS</b>	<b>\$14,591,896</b>	<b>\$0</b>	<b>\$14,380,129</b>
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OTHER CONSTRUCTION COSTS	%THC			%EHC
General requirements (<6%)	5.94%	867,203	867,203	6.03%
Field supervision (within GR limit)		0		
Contractor overhead (<2%)	1.90%	277,600	277,600	1.93%
G & A Field (within overhead limit)		0		
Contractor profit (<6%)	5.71%	832,800	832,800	5.79%
<b>TOTAL CONTRACTOR FEES</b>		<b>\$1,977,603</b>	<b>\$0</b>	<b>\$1,977,603</b>

<b>TOTAL CONSTRUCTION CONTRACT Before 11.9(e)(2)</b>	<b>\$16,569,499</b>	<b>\$0</b>	<b>\$16,357,732</b>
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**Voluntary Eligible "Hard Costs" (After 11.9(e)(2))\***  
Enter amount to be used to achieve desired score.

\$0.00 psf

If NOT seeking to score points under §11.9(e)(2), E96:E97 should remain BLANK. True eligible cost should be entered in line items E83 and E87:E91. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E96:E97 that produces the target cost per square foot in D96:D97. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

**SOFT COSTS<sup>3</sup>**

Architectural - Design fees	470,035		470,035
Architectural - Supervision fees	72,900		72,900
Engineering fees	253,600		253,600
Real estate attorney/other legal fees	25,000		25,000
Accounting fees	55,000		55,000
Impact Fees	440,228		440,228
Building permits & related costs	78,500		78,500
Appraisal	0		0
Market analysis	8,000		8,000
Environmental assessment	16,500		16,500
Soils report	64,510		64,510
Survey	49,550		49,550
Marketing	0		
Hazard & liability insurance	165,000		165,000
Real property taxes	140,000		140,000
Personal property taxes	0		
Tenant Relocation	0		
PLEASE SPECIFY - see footnote 1	350,000		350,000
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Soft Cost</b>	<b>\$2,188,823</b>	<b>\$0</b>	<b>\$2,188,823</b>

e.g. Delinquent fees, taxes or changes

**FINANCING:**

**CONSTRUCTION LOAN(S)<sup>3</sup>**

Interest	396,094		264,062
Loan origination fees	181,900		181,900
Title & recording fees	135,000		135,000
Closing costs & legal fees	194,000		194,000
Inspection fees	72,800		72,800
Credit Report			
Discount Points	36,730		36,730
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**PERMANENT LOAN(S)**

Loan origination fees			
Title & recording fees			
Closing costs & legal			
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP	45,500		
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**BRIDGE LOAN(S)**

Interest	15,000		15,000
Loan origination fees			
Title & recording fees			
Closing costs & legal fees	15,000		15,000
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**OTHER FINANCING COSTS<sup>3</sup>**

Tax credit fees	71,950		
Tax and/or bond counsel			
Payment bonds			
Performance bonds	115,828		115,828
Credit enhancement fees			
Mortgage insurance premiums			
Cost of underwriting & issuance	50,000		50,000
Syndication organizational cost	25,000		
Tax opinion			
Refinance (existing loan payoff amt)			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Financing Cost</b>	\$1,354,802	\$0	\$1,080,320

**DEVELOPER FEES<sup>3</sup>**

Housing consultant fees <sup>4</sup>	250,000		190,000	
General & administrative	0			
Profit or fee	2,185,002		2,146,432	
<b>Subtotal Developer Fees</b>	\$2,435,002	\$0	\$2,336,432	11.90%

**RESERVES**

Rent-up - new funds	364,000		
Rent-up - existing reserves*			
Operating - new funds	560,283		
Operating - existing reserves*			
Replacement - new funds			
Replacement - existing reserves*			
Escrows - new funds	120,000		
Escrows - existing reserves*			
<b>Subtotal Reserves</b>	\$1,044,283	\$0	\$0

**\*Any existing reserve amounts should be listed on the Schedule of Sources.**

<b>TOTAL HOUSING DEVELOPMENT COSTS<sup>5</sup></b>	\$24,423,659	\$0	\$21,963,307
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BREAKDOWN MUST BE PROVIDED



# Contractor's and/or Mortgagor's Cost Breakdown

U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner

OMB No. 2502-0044 (exp.12/31/2018)

## Schedule of Values

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This information is required to obtain benefits. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB Control Number.

Section 227 of the National Housing Act (Section 126 of the Housing Act of 1954, Public Law 560, 12 U.S.C., 1715r), authorizes the collection of this information. The information is required for a general contractor when an identity of interest exists between the general contractor and the mortgagor or when the mortgagor is a non-profit entity and a cost plus contract has been used. The information is used by HUD to facilitate the advances of mortgage proceeds and their monitoring.

Privacy Act Notice. The United States Department of Housing and Urban Development, Federal Housing Administration, is authorized to solicit the information requested in this form by virtue of Title 12, United States Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. While no assurances of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.

Date:	Sponsor:
<b>June 26, 2020</b>	<b>KD Hammack Creek Housing, LP</b>
Project No:	Building Identification:
<b>113-35888</b>	<b>Master 2328 - All Improvements</b>
Name of Project:	Location:
<b>Hammack Creek Apartments</b>	<b>Kennedale, Tx.</b>

This form represents the Contractors and/or Mortgagors firm costs and services as a basis for disbursing dollar amounts when insured advances are requested. Detailed instructions for completing this form are included on the reverse side.

Line	Div.	Trade Item	Cost *	Trade Description
1	3	Concrete	\$ 767,917	Post Tension Building Foundations,Termite Control, Gypcrete Interior, Lightweight Balconies.
2	4	Masonry	\$ 317,513	Brick Veneer, Brick Flashing, Felt & Brick Accessories.
3	5	Metals	\$ 272,539	Balcony Railings.
4	6	Rough Carpentry	\$ 2,684,151	L&M for framing floors, walls, roofs, trusses, siding, sheathing, decking. Labor for ext'r doors and windows.
5	6	Finish Carpentry	\$ 184,392	Labor & Materials for interior trim & labor for interior doors.
6	7	Waterproofing	\$ -	Waterproofing & flashings at exterior balconies
7	7	Insulation	\$ 141,000	Labor & Materials for wall, floor, roof, & sound batt insulation.
8	7	Roofing	\$ 239,268	Labor & Materials for asphalt shingles, felt, metal flashing, roof vents. Labor & Materials for metal roofs
9	7	Sheet Metal	\$ 13,028	Labor & material for gutters, downspouts & splashblocks.
10	8	Doors	\$ 355,284	Material for exterior & interior doors. Labor & material for garage doors & finish hardware.
11	8	Windows	\$ 104,312	Material for windows.
12	8	Glass	\$ -	N/A
13	9	Lath and Plaster	\$ 424,139	Stucco Veneer, Labor and Materials
14	9	Drywall	\$ 945,034	Labor & Materials for drywall, tape, bed & texture
15	9	Tile Work	\$ 44,517	Labor & Materials for ceramic tile.
16	9	Acoustical	\$ -	N/A
17	9	Wood Flooring	\$ -	N/A
18	9	Resilient Flooring	\$ 88,074	Labor & Materials for vinyl.
19	9	Painting and Decorating	\$ 291,409	Labor & Materials for caulking, priming & painting interiors & exteriors.
20	10	Specialties	\$ 73,781	Labor & Materials for signage, mirrors, wire shelving, toilet & bath accessories
21	11	Special Equipment	\$ -	
22	11	Cabinets	\$ 350,000	Labor & material for kitchen & bath cabinets & plastic laminate tops
23	11	Appliances	\$ 178,248	Material for all kitchen appliances.
24	12	Blinds and Shades, Artwork	\$ 33,718	Labor & Material for blinds.
25	12	Carpets	\$ 60,345	Labor & material to install carpet & padding.
26	13	Special Construction	\$ 279,790	Labor & material to install fire sprinkler system.
27	14	Elevators	\$ -	N/A
28	15	Plumbing and Hot Water	\$ 697,514	Labor & materials for complete bath and kitchen installation within structures, connect 5' outside bldg.
29	15	Heat and Ventilation	\$ 572,764	Labor & materials for HVAC system, ductwork, fire dampers, refrigerant lines, t-stat and control wiring.
30	15	Air Conditioning	\$ -	See Line 29
31	16	Electrical	\$ 887,247	Labor & materials for complete electrical system, lights, outlets, switches, data, phone & cable TV.
32		Subtotal (Structures)	\$ 10,005,984	
33		Accessory Structures	\$ 674,142	Club/Leasing Office, Carports, Trash Enclosers
34		Total (Lines 32 and 33)	\$ 10,680,126	
35	2	Earthwork	\$ 1,196,122	Cut/Fill, Strip & Place Topsoil, Fine Grade, Erosion Control
36	2	Site Utilities	\$ 392,045	Sanitary Sewer, Domestic & Fire Water, Storm Drainage System
37	2	Roads and Walks	\$ 692,799	Concrete Pavement, Sidewalks
38	2	Site Improvements	\$ 396,830	Fencing, Swimming Pool, Monument Signs, Playground
39	2	Lawns and Planting	\$ 248,201	Irrigation System, Planting Material, Bed Prep, Sod/Hydromulch.
40	2	Unusual Site Conditions		Nonresidential and Special Exterior Land Improvement
				Offsite Costs

		(costs included in trade item breakdown)		(costs not included in trade item breakdown)	
41	<b>Total Land Improvements</b>	\$	2,925,997		
42	<b>Total Struct. &amp; Land Imprvts.</b>	\$	13,606,123	Description	Est. Cost *
43	1 General Requirements (Exhibit C)	\$	867,203	\$ -	Utilities (Sanitary Line) \$ 211,767.00
44	<b>Subtotal (Lines 42 and 43)</b>	\$	14,473,326	\$ -	
45	Builder's Overhead ( 2.00% )	\$	277,600	\$ -	
46	Builder's Profit ( 3.50% )	\$	485,800	<b>Total \$</b>	-
47	<b>Subtotal (Lines 44 thru 46)</b>	\$	15,236,726	Other Fees	<b>Total \$ 211,767.00</b>
48					Demolition (costs not included in trade item breakdown)
49	Other Fees	\$	107,077		
50	100% P&P Bond Premium	\$	115,828	Description	Est. Cost *
51	<b>Total for All Improvements</b>	\$	15,459,631	General Liability	\$ 82,577.00
52	Builder's Profit Paid by Means Other Than Cash			As-Built Survey	\$ 12,000.00
		\$ -		Cost Certification	\$ 12,500.00
53	<b>Total for All Improvements Less Line 52</b>			\$ -	\$ -
		\$	15,459,631	<b>Total \$</b>	107,077.00
				<b>Total \$</b>	-

I hereby certify that all the information state herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Mortgagor:		By:		Date:
KD Hammack Creek Housing, LP		Deepak P. Sulakhe		
Contractor:		By:		Date:
Kennedale-Sublett GC, JV		Stephen J. Bruszer		
FHA: (Processing Analyst)	Date:	FHA: (Chief, Cost Branch or Cost Analyst)	Date:	
FHA: (Chief Underwriter)				Date:

**Notes:**

**Instructions for Completing Form HUD-2328**

This form is prepared by the contractor and/or mortgagor as a requirement for the issuance of a firm commitment. The firm replacement cost of the project also serves as a basis for the disbursement of dollar amounts when insured advances are requested. A detailed breakdown of trade items is provided along with spaces to enter dollar amounts and trade descriptions.

A separate form is prepared through line 32 for each structure type. A summation of these structure costs are entered on line 32 of a master form. Land improvements, General Requirements and Fees are completed through line 53 on the master 2328 only.

**Date** -- Date form was prepared.

**Sponsor** -- Name of sponsor or sponsoring organization.

**Project No.** -- Eight-digit assigned project number.

**Building Identification** -- Number(s) or Letter(s) of each building as designated on plans.

**Name of Project** -- Sponsors designated name of project.

**Location** -- Street address, city and state.

**Division** -- Division numbers and trade items have been developed from the cost accounting section of the uniform system.

**Accessory Structures** -- This item reflects structures, such as: community, storage, maintenance, mechanical, laundry and project office buildings. Also included are garages and carports or other buildings. When the amount shown on line 33 is \$20,000.00 or 2% of line 32 whichever is less, a separate form HUD-2328 will be prepared through line 32 for Accessory Structures.

**Unusual Site Conditions** -- This trade item reflects rock excavation, high water table, excessive cut and fill, retaining walls, erosion, poor drainage and other on-site conditions considered unusual.

**Cost** -- Enter the cost being submitted by the Contractor or bids submitted by a qualified subcontractor for each trade item. These costs will include, as a minimum, prevailing wage rates as determined by the Secretary of Labor.

**Trade Description** -- Enter a brief description of the work included in each trade item.

**Other Fees** -- Includable are fees to be paid by the Contractor, such as sewer tap fees not included in the plumbing contract. Fees paid or to be paid by the Mortgagor are not to be included on this form. **Total For All Improvements** -- This is the sum of lines 1 through 50 and is to include the total builder's profit (line 46).

**Line 52** -- When applicable, enter the portion of builder's profit (line 46) to be paid by means other than cash and/or any part of the builder's profit to be waived during construction. **Non-Residential and Special Exterior Land Improvement Costs** -- Describe and enter the cost of each improvement, i.e. on-site parking facilities including individual garages and carports, commercial facilities, swimming pools with related facilities and on-site features provided to enhance the environment and livability of the project and the neighbor-hood. The Design Representative and Cost Analyst shall collaborate with the mortgagor or his representative in designating the items to be included.

**Off-Site Costs** -- Enter description and dollar amount including fees and bond premium for off-site improvements.

**Demolition** -- Enter description and dollar amount of demolition work necessary to condition site for building improvements including the removal of existing structures, foundations, utilities, etc.

**Other Fees** -- Enter a brief description of item involved and cost estimate for each item.

**Signatures** -- Enter the firm name, signature of authorized officer of the contractor, and/or mortgagor and date the form was completed.

### Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

**Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)**

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds			
		Bond Amount		Bond Amount			
	Tax Exempt Bonds						
	Taxable Bonds						

**Debt**

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period				Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0	
Colliers Mortgage	FHA	\$9,100,000	2.93%	1st	\$ 9,100,000	2.93%	40	40	1st

**Third Party Equity**

Boston Financial	<a href="#">HTC</a> \$ 1,656,500	\$ 10,608,822			\$ 15,155,459				0.915

**Grant**

City of Kennedale	<a href="#">§11.9(d)(2)LPS Contribution</a>				\$ 500				

**Deferred Developer Fee**

OM Housing					\$ 167,699				

**Other**

	<a href="#">Direct Loan Match</a>								

<b>Total Sources of Funds</b>		\$ 19,708,822			\$ 24,423,658				
<b>Total Uses of Funds</b>					\$ 24,423,659				

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

Colliers Mortgage will provide the permanent financing for the project with an FHA loan. The loan amount will be \$9,100,000 and it will be at a rate of 2.93% with a 40 year amortization period and 40 year term. Boston Financing is providing the equity and will bring \$15,155,459 in total equity and \$10,608,822 during the construction period. Deferred developer fee is currently estimated at \$397,034.

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

*Lender and Investor are requiring \$364,000 in rent-up reserves, \$560,283 in operating reserves and a \$120,000 in escrows.*

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

*Please note that operating expenses have been revised to match the lender/investor underwriting.*

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

\_\_\_\_\_  
Signature, Authorized Representative, Construction or Permanent Lender      \_\_\_\_\_ Printed Name      \_\_\_\_\_ Date

Telephone: \_\_\_\_\_  
Email address: \_\_\_\_\_

If a revised form is submitted, date of submission: \_\_\_\_\_

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Reserve at Sulphur Springs (#20016) in Sulphur Springs.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Reserve at Sulphur Springs (the Development) was approved by the Board in July 2020, for the construction of 72 multifamily units in Sulphur Springs, Hopkins County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 9.3% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Reserve at Sulphur Springs is approved.

**BACKGROUND**

Reserve at Sulphur Springs is a 2020 competitive HTC award of \$1,000,000, which proposed the construction of 72 multifamily units serving the elderly population in Sulphur Springs, Hopkins County. All 72 units are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Reserve at Sulphur Springs is 60% complete.



In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Reserve at Sulphur Springs. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

Construction costs rose from \$7,945,091 in the application to the current \$9,525,322 due to an unprecedented increase in material prices, lumber specifically, that resulted from the COVID-19 pandemic. In addition to the observed 6% general inflation increases, there have also been delays in permitting and inspections. This represents an increase of \$1,580,231. This is in addition to significantly increasing the amount of debt underwritten for the development in March 2021 as an additional strategy to feasibly underwrite the transaction and close.

Based on the original award amount of \$1,000,000, the allowable limit for the supplemental request is \$70,000; however, updated financial documents submitted by the applicant indicate that an additional award of \$93,000, or 9.3% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.

Texas Department of Housing & Community Affairs

Competitive (9%) Housing Tax Credit Manager

221 East 11th Street

Austin, Texas 78701

**January 26, 2022**

**RE: 20016 Waiver Request – Additional Credit Request**

Dear Texas Department of Housing & Community Affairs Asset Management (“TDHCA”):

Attached to this letter is the requested documentation for a waiver for the additional credit request limitation of 7%. We have provided the required information as an exhibit to this letter and also want to report that the development is currently approximately 60% complete.

The reason for this request is that the 7% cap on additional credit request, in our understanding, did not originally have an option to request for a waiver. We would have requested the amount that we are currently asking (\$93,000); if such an option was available.

Our costs rose significantly from application to financial closing. Our construction costs rose from \$7,945,091 in the application to the current \$9,525,322. This has been due to an unprecedented increase in material prices, lumber specifically, that resulted from the Covid-19 Pandemic. In addition to the 6% general inflation increases we have seen, there have also been delays in permitting and delays in inspections. This represents an increase of \$1,580,231. This is in addition to significantly increasing the amount of debt underwritten for the development as an additional strategy to feasibly underwrite the transaction and close, as we did in March 2021. The requested additional credits represents a major relief relative to the percent increase in hard costs (20%).

Additionally, the development is currently 60% complete. This is behind schedule by 30 – 60 days. This delay brings with it the real possibility of additional soft cost increases; specifically due to the construction loan being out for additional months.

If you have any additional questions, or I can be of further assistance, please feel free to give me a call at (513) 964-1141. We thank you for the opportunity to submit this waiver and for your review of it.

Sincerely,



Brian M. McGeedy

## Original Application and Contact Information

### Original Application Information

<u>20016</u>	<u>2020</u>	<u>Reserve at Sulphur Springs</u>	<input type="checkbox"/>	<input type="checkbox"/>	Mark "X" to select the Set-aside associated with the original Application (if applicable).
Original Application Number	Year of Award	Development Name	At-Risk	USDA	

### Development Site Information

<u>NWC League St. S. and Bell St.</u>			<u>Sulphur Springs</u>		Mark "X" to select the rural/urban designation associated with the original Application.
Address			City		
<u>4</u>	<u>75482</u>	<u>Hopkins</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Region	Zip	County	Urban	Rural	

### Supplemental Credit Request Information

<u>\$ 93,000.00</u>	<u>\$ 1,000,000.00</u>	<u>\$ 70,000.00</u>	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.
Supplemental Credit Request Amount	Original Application Award Amount	Maximum Possible Supplemental Request	

### Requester Contact Information

<u>Brian McGeady</u>	<u>5139641141</u>
Name	Office Phone
<u>brian.mcgeady@mvahpartners.com</u>	<u>5139641141</u>
Email Address	Mobile Phone

Mailing Address:

9100 Centre Point Drive, Suite 210

Street

<u>West Chester</u>	<u>OH</u>	<u>45069</u>
City	State	ZIP

### Consultant Contact Information (if applicable)

<u>Sarah Andre</u>	<u>5126983369</u>
Name	Office Phone
<u>sarah@structuretexas.com</u>	<u>5126983369</u>
Email Address	Mobile Phone

Mailing Address:

1301 Chicon Street Suite 101

Street

<u>Austin</u>	<u>Texas</u>	<u>78702</u>
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**CONSTRUCTION LOAN(S)<sup>3</sup>**

Interest	234,973		234,973
Loan origination fees	77,850		77,850
Title & recording fees	20,000		20,000
Closing costs & legal fees	40,000		40,000
Inspection fees	10,800		10,800
Credit Report			
Discount Points			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**PERMANENT LOAN(S)**

Loan origination fees	36,000		
Title & recording fees	20,000		
Closing costs & legal	20,000		
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**BRIDGE LOAN(S)**

Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**OTHER FINANCING COSTS<sup>3</sup>**

Tax credit fees	42,160		
Tax and/or bond counsel			
Payment bonds			
Performance bonds			
Credit enhancement fees			
Mortgage insurance premiums			
Cost of underwriting & issuance			
Syndication organizational cost			
Tax opinion			
Refinance (existing loan payoff amt)			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Financing Cost</b>	\$501,783	\$0	\$383,623

**DEVELOPER FEES<sup>3</sup>**

Housing consultant fees <sup>4</sup>			
General & administrative			
Profit or fee	1,390,040		1,390,040
<b>Subtotal Developer Fees</b>	\$1,390,040	\$0	\$1,390,040

12.72%

12.78%

**RESERVES**

Rent-up - new funds				
Rent-up - existing reserves*				
Operating - new funds	234,549			
Operating - existing reserves*				
Replacement - new funds				
Replacement - existing reserves*				
Escrows - new funds				
Escrows - existing reserves*				
<b>Subtotal Reserves</b>	\$234,549		\$0	\$0

**\*Any existing reserve amounts should be listed on the Schedule of Sources.**

**TOTAL HOUSING DEVELOPMENT COSTS<sup>5</sup>**

\$12,922,734	\$0	\$12,263,525
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The following calculations are for HTC Applications only.

**Deduct From Basis:**

Federal grants used to finance costs in Eligible Basis		
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BREAKDOWN MUST BE PROVIDED

Non-qualified non-recourse financing			
Non-qualified portion of higher quality units §42(d)(5)			
Historic Credits (residential portion only)			
<b>Total Eligible Basis</b>		\$0	\$12,263,525
**High Cost Area Adjustment (100% or 130%)			130%
<b>Total Adjusted Basis</b>		\$0	\$15,942,583
Applicable Fraction			100%
<b>Total Qualified Basis</b>	\$15,942,583	\$0	\$15,942,583
Applicable Percentage <sup>6</sup>			9.00%
<b>Credits Supported by Eligible Basis</b>	\$1,434,832	\$0	\$1,434,832
<b>Credit Request</b>	\$ 1,093,000		


\*11.9(c)(2) Cost Per Square Foot: DO NOT ROUND! Applicants are advised to ensure that the figure is not rounding down to the maximum dollar figure to support the elected points.

For TDHCA Issued Bonds Only Scoring Item per 12.6 (13)	
50% Test for Bond Financing for 4% Tax Credits	
<b>TDHCA Tax-Exempt Bond Amount</b>	\$ -
Land Cost	\$ 205,000
Depreciable Bldg Cost **	\$ 12,315,025
<b>Aggregate Basis for 50% Test</b>	<b>\$ 12,520,025</b>
<b>Percent Financed by Tax-Exempt Bonds</b>	<b>0.00%</b>

\*\*Depreciable building cost includes: Total construction contract, total building acquisition, total developer fee, plus eligible financing and soft costs.

Name of contact for Cost Estimate: Justin Gregory  
 Phone Number for Contact: (513) 964-1152

If a revised form is submitted, date of submission: \_\_\_\_\_

Footnotes:

- <sup>1</sup> An itemized description of all "other" costs must be included at the end of this exhibit.
- <sup>2</sup> All Off-Site costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Offsite Cost Breakdown form.
- <sup>3</sup> (HTC Only) Site Work expenses, indirect construction costs, developer fees, construction loan financing and other financing costs may or may not be included in Eligible Basis. Site Work costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Site Work Cost Breakdown form.
- <sup>4</sup> (HTC Only) Only fees paid to a consultant for duties which are not ordinarily the responsibility of the developer, can be included in Eligible Basis. Otherwise, consulting fees are included in the calculation of maximum developer fees.
- <sup>5</sup> (HTC Only) Provide **all** costs & Eligible Basis associated with the Development.
- <sup>6</sup> (HTC Only) Use the appropriate Applicable Percentages as defined in §11.1 of the QAP.

**Schedule of Sources of Funds and Financing Narrative**

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

**Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)**

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds				
		Bond Amount		Bond Amount				
TDHCA	Mortgage Revenue Bond							
	Tax Exempt Bonds							
	Taxable Bonds							

**Debt**

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0		
Synovus		\$10,384,000	4.00%	1						
Bellwether Capital					\$ 3,274,000	4.00%	40	40		1

**Third Party Equity**

Synovus Bank	HTC	\$ 1,093,000	\$ 896,497		\$ 9,562,794				0.875	

**Grant**

	<a href="#">§11.9(d)(2)LPS Contribution</a>									

**Deferred Developer Fee**

MVAH Development LLC		\$ 526,001			\$ 85,940	0.00%		12		
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**Other**

	<a href="#">Direct Loan Match</a>									

<b>Total Sources of Funds</b>		\$ 11,806,498			\$ 12,922,734					
<b>Total Uses of Funds</b>					\$ 12,922,734					

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

Synovus Bank will provide the construction loan for the Reserve at Sulphur Springs in the amount of \$10,384,000. The interest rate for the construction loan will be 4.00% and the loan term will be 24 months. The lender will have a first lien deed of trust on the land and improvements. Bellwether will provide the permanent mortgage (first lien position) in the amount of \$3,274,000. The interest rate will be 4.00%, amortized over a 40-year period, with a 40-year term. The equity will be advanced from Synovus Bank in the amount of \$9,562,794. The exact amount may be adjusted based on adjusters as to be completely defined in the final closing documents. The syndication proceeds are based on a price of \$.875 per dollar of tax credits, use of the 9% rate, a 130% basis boost, and a 99.99% interest, applied to the projected allocation of \$1,093,000. Timing will be contingent on PNC Bank processing due diligence necessary for the commitment and closing of financing. Any shortfall

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

*(Continued from Above) be filled by the developer deferring a portion of the developer fee to make the development financially feasible. The payment of the developer note will be based on the cash flow of the development and will not bear interest. It is anticipated that the deferred developer fee (currently projected at \$85,940) will be paid prior to the term of 12 years from the placed in service date of the development. The replacement reserve for Reserve at Sulphur Springs will be \$250/unit annually and will be utilized for repairing and maintaining capital improvements on the development site. Specifically relating to maintaining a quality*

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

There are no operating subsidies or project based assistance currently identified for Reserve at Sulphur Springs. There are no approvals or applications necessary for operating items necessary for the closing of financing of Reserve at Sulphur Springs. All rents are tax credit rents that will be paid by the resident or a section 8 housing choice voucher that is not tied to the specific unit being rented, but the resident. All rents are outlined on the Rent Schedule.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as



Synovus Bank  
2500 Weston Road, Ste. 401  
Weston, FL 33331

# SYNOVUS

January 26 2021

Mr. Michael Riechman  
Reserve at Sulphur Springs, LLC  
9100 Centerpointe Drive, Suite 210  
West Chester, OH 45069

**Re: Reserve at Sulphur Springs additional credits**

Dear Mr. Riechman:

Synovus Bank is pleased to offer you the following letter of intent based on information received to date. We appreciate the opportunity to work with you as a provider of tax credit equity and related debt products. The purpose of this letter of intent is to generally describe an investment or loan Synovus Bank is considering. These terms are subject to change upon the completion of the Bank's due diligence, and as may be required pursuant to the Bank's applicable investment criteria, credit policies, or underwriting standards as may be in effect from time to time, along with other factors relevant to making an investment or lending decision. This correspondence is not a commitment to lend or invest, and no commitment to lend or invest will exist prior to receipt and analysis of all due diligence items and formal credit approval.

**Investment Entity:** Sulphur Springs, LLC (the "Partnership"), having MVAH Development LLC, LLC as General Partner, with a 0.009% ownership interest in the Partnership, Synovus Special Limited Partner, LLC, with a 0.001% ownership interest in the partnership and Synovus Bank, as Federal Investor Limited Partner with a 99.99% ownership interest in the Partnership.

**Project Description:** Reserve Sulphur Springs, a 72-unit affordable apartment complex for Seniors aged 55+ to be located in Sulphur Springs, Hobson County, Texas.

**Tax Credits Available:** \$1,093,000 (including additional tax credits)

**Tax Credit Price:** \$0.875  
(Federal)

**Total Capital Contribution:** \$9,562,794

- A. Capital Contribution #1: **(10%)** at Partnership Closing funded on an as-needed construction draw basis throughout the construction period.
- B. Capital Contribution #2: **(80%)** at 100% lien free completion and receipt of final certificates of occupancy. Notwithstanding documentation required per the Limited Partnership Agreement, the

portion of this Capital Contribution allocated to pay down the Construction Loan shall be paid upon receipt of the final certificate of occupancy and draft ALTA survey.

- C. Capital Contribution #3: (9.85%) At the later of receipt of Cost Certification, conversion to permanent loan, 1.15x Debt Service Coverage Ratio for 90 consecutive days and 100% tax credit qualified tenants. \$50,000 will be held back until receipt of final 8609's.

**Developer Fees:** To be determined

**Asset Management Fee:** Asset management fees will be \$4,050 in 2022; \$5,400 from 2023-2026; \$6,200 from 2027-2031; \$7,100 from 2032-2036; \$8,200 from 2037-2041; and \$9,400 in 2042. Said fee shall be paid as part of the cash flow waterfall in an order to be determined by the Limited Partner.

**Cash Flow Split:** Cash Flow shall be distributed as follows after all other expenses and asset management fees have been paid:

- A. 90.00% to General Partner.
- B. 10.00% to Federal Investor Limited Partner.

**Residual Split:** Any gain upon sale or refinancing shall be distributed as follows:

- A. 90.00% to General Partner.
- B. 10.00% to Federal Investor Limited Partner.

**Replacement Reserves:** \$250 per unit per year.

**Guaranties:** A. Operating Deficit Guaranty: Unlimited operating deficit guaranty from MVAH Partners, LLC and any other guarantor deemed necessary by Synovus Bank until the latter of i) the achievement of a 1.15x debt service coverage ratio for 90 consecutive days, ii) permanent loan conversion and iii) receipt of Form(s) 8609s. Once achieved, the operating deficit guaranty will be capped in the amount of the required operating deficit reserve and will remain in effect for 60 months. The guaranty will be eliminated if the project averages above a 1.15x debt service coverage ratio for the last 12 months of the 60-month period or any subsequent period and the operating deficit reserve is fully funded.

B. Development Completion Guaranty: There will be a 100% guaranty by MVAH Partners, LLC and any other guarantor deemed necessary by Synovus Bank for the completion of construction of the project substantially in accordance with plans and specifications approved by Synovus Bank, including, without limitation, a guaranty (i) to pay any amounts needed in excess of the construction loan and other available proceeds to complete the improvements and (ii) to pay any operating deficits prior to conclusion of construction completion.

C. Tax Credit Guaranty: There will be an unlimited tax credit guaranty by MVAH Partners, LLC and any other guarantor deemed necessary by Synovus Bank for seven years following the latter of i) the achievement of a 1.15x debt service coverage ratio for 90 consecutive days, ii) permanent loan conversion and iii) receipt of Form(s) 8609s.

C. Guaranty of General Partner's Obligation: MVAH Partners, LLC and any other guarantor deemed necessary by Synovus Bank shall guarantee certain obligations of the General Partner under the Partnership Agreement to contribute capital to pay any unpaid, deferred development fee and to fulfill the repurchase obligation under certain circumstances.

*Other Notes and  
Conditions:*

Synovus Bank's investment is based upon the receipt, review and approval of the following information:

- A. Contingent upon receipt, review and approval of environment reports (including testing for lead based paint, asbestos and black mold as applicable) and geological reports, site inspection, appraisal, market study supporting lease-up schedule, personal and/or corporate financial statements on the General Partner, general contractor and guarantor(s), management company review, revised construction budgets, contractor, contract, and cash flow.
- B. Synovus will engage an inspecting engineer to review the project and plans and specs prior to partnership close. The cost of this service will be paid by the partnership. If an acceptable appraisal is not required by the lender, the cost of an appraisal will also be paid by the partnership. The costs of inspections on monthly draws will be the cost of the partnership if not available from permanent lender. In addition, all legal fees will be paid by the partnership.
- C. To help fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person or corporation who opens an account and/or enters into a business relationship.
- D. Synovus will require the operating deficit reserve, replacement reserve, bridge loan reserve and project operating accounts be held with the bank. The bridge loan reserve and operating accounts shall be opened prior to closing.

*Operating Deficit  
Reserve:*

An operating deficit reserve of no less than six months of operating expenses and bank determined debt service will be set up as a condition of the final equity installment at stabilization.

*Construction Lender:* Synovus Bank is the construction and bridge lender on the project.

At your convenience, please send an executed copy of this letter of intent to Synovus Bank. Upon receipt, Synovus Bank will begin the due diligence process and prepare a Partnership Agreement and related documents consistent with the terms and conditions set forth above.

Again, thank you for your time and we appreciate the opportunity to work with you.

Very truly yours,



Marilyn L. Carl  
Director  
Synovus Bank

*Agreed and Accepted this Day:*



By: \_\_\_\_\_

Its: Authorized Signer

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for The Park Tower (#20018) in Fort Worth.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Reserve at Sulphur Springs (the Development) was approved by the Board in July 2020, for the construction of 90 multifamily units in Fort Worth, Tarrant County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 14% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Reserve at Sulphur Springs is approved.

**BACKGROUND**

The Park Tower is a 2020 competitive HTC award of \$1,462,830, which proposed the construction of 90 multifamily units serving the general population in Fort Worth, Tarrant County. Of the 90 units, 12 are market-rate and 78 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional

supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for The Park Tower. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

The spike in construction cost for materials and associated labor shortages has forced the owner to make design concessions and consider all resources at their disposal. To reduce construction cost, the owner, architect, and general contractor have spent significant time and effort to value engineer the underwritten design. The owner has also coordinated with asset management staff on a material amendment to reduce the net rentable and common areas. As described in the material amendment request, the unit sizes still meet the 2020 QAP scoring threshold and the most significant reduction in common area is in the building corridors.

Based on the original award amount of \$1,462,830, the allowable limit for the supplemental request is \$102,298; however, updated financial documents submitted by the applicant indicate that an additional award of \$204,796, or 14% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.



January 26, 2022

Cody Campbell  
Director of Multifamily Programs  
Texas Dept. of Housing & Comm. Affairs  
221 E. 11<sup>th</sup> Street  
Austin, TX 78701

RE: TDHCA 21705 (FKA 20018) – The Park Tower

Dear Mr. Campbell,

On behalf of HTG Jacksboro, LLC (“the owner”) and pursuant to §11.201 of the 2022 Qualified Allocation Plan (“QAP”), please accept this request for a waiver of §11.1003(b), regarding the amount of supplemental credits requested for The Park Tower, a 90-unit development for families in Fort Worth, Texas.

HTG Jacksboro, LLC applied for \$102,398 of supplemental credits on December 10, 2021, which represents 7% of the original \$1,462,830 credit award. The submitted application exhibits reflect the increased development cost of \$24,521,794, which would support \$2,056,719 in credits. The development cost is more than \$4 million over the development cost at original underwriting. We respectfully request that HTG Jacksboro, LLC be allowed to submit another request for supplemental credits in the amount of \$102,398 for a total of \$204,796 in supplemental credits, representing 14% of the original award.

The spike in construction cost for materials and associated labor shortages has forced the owner to make design concessions and consider all resources at their disposal. To reduce construction cost, the owner, architect, and general contractor have spent significant time and effort to value engineer the underwritten design. The owner has also coordinated with asset management staff on a material amendment to reduce the net rentable and common areas. As described in the material amendment request, the unit sizes still meet the 2020 QAP scoring threshold and the most significant reduction in common area is in the building corridors.

Per the most recent application log for Region 3, only \$272,398 of the available \$987,864 of supplemental credits was requested from the TDHCA Supplemental Credit Regional Allocation Formula (“RAF”) set aside. The region is undersubscribed for supplemental credits and the credit amount has already been earmarked for distressed deals. Enclosed you will find an updated Schedule of Values (“SOV”) from Carleton Construction. The most recent SOV reflects an additional line item, identifying an additional cost of \$600,000 for off-site improvements, which are a requirement from the City of Fort Worth water department. The owner has also enclosed revised exhibits and confirmation from the National Equity Fund, agreeing to purchase \$204,796 in supplemental Credits.

Thank you for your consideration and for working with the development community to find solutions to these unprecedented construction cost increases. If you need any more information, please feel free to contact Val DeLeon at [valentind@htgf.com](mailto:valentind@htgf.com) or (512) 417-0985.

Sincerely,

**HTG JACKSBORO, LLC,**  
a Texas limited liability company

By: **HTG JACKSBORO MEMBER, LLC,**  
a Florida limited liability company,  
its managing member

By:   
Matthew Rieger, Manager





# 2022 Supplemental Credit Request

# Original Application and Contact Information

## Original Application Information

Original Application Number: 20018      Year of Award: 2020      Development Name: The Park Tower      At-Risk:       USDA:       Mark "X" to select the Set-aside associated with the original Application (if applicable).

## Development Site Information

Address: 1209 Jacksboro Highway      City: Fort Worth  
Region: 3      Zip: 76114      County: Tarrant      Urban:       Rural:       Mark "X" to select the rural/urban designation associated with the original Application.

## Supplemental Credit Request Information

Supplemental Credit Request Amount: \$ 204,796.00      Original Application Award Amount: \$ 1,462,830.00      Maximum Possible Supplemental Request: \$ 102,398.10      Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.

## Requester Contact Information

Name: Val DeLeon      Office Phone: 786-536-9104  
Email Address: valentind@htgf.com      Mobile Phone: 512-417-0985

### Mailing Address:

Street: 7035 Bee Caves Road, Suite 203  
City: Austin      State: TX      ZIP: 78746

## Consultant Contact Information (if applicable)

Name: \_\_\_\_\_      Office Phone: \_\_\_\_\_  
Email Address: \_\_\_\_\_      Mobile Phone: \_\_\_\_\_

### Mailing Address:

Street: \_\_\_\_\_



2022 Supplemental Credit Request | Certifications

The Requester certifies to the following (Requester must INITIAL each that applies):

M

There has been no change to the Applicant Eligibility or Original Owner Certification since the Original Application was submitted.

There have been no changes from the Original Application that would require additional disclosure or mitigation, or render the proposed Development Site ineligible. Any change must be addressed under the requirements of §10.405 (relating to Amendments and Extensions).

M

There has been no change to Site Control, other than extensions or purchase by the Requester, since the Original Application was submitted. If the nature of Site Control has changed, the Requester of Supplemental Credits must submit the appropriate documentation as described in §11.204(10) of the 2022 QAP.

There has been no change to the zoning status of the Development since the Original Application. If the zoning status of the Development has changed, the Requester of Supplemental Credits must include all requirements of §11.204(11) of the 2022 QAP.

M

The development has not placed in service.

By signing in the yellow box below, the Requester certifies the information provided on and in connection with this Form is true and correct to the best of their knowledge.

Requester Printed Name

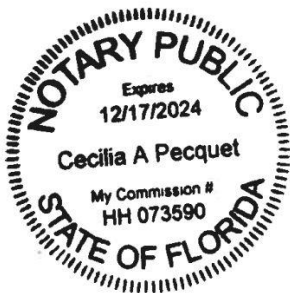
Matthew Rieger

Requester Signature

*[Handwritten Signature]*

Sworn to and subscribed before me on the 26 day of January, 2022 by Matthew Rieger

(Personalized Seal)



*[Handwritten Signature]*

Notary Public Signature

Notary Public, State of Florida

County of Miami Dade

My Commission Expires: 12.17.2024

Date



## 2022 Supplemental Credit Request | Financing Requirements Instructions

Pursuant to 10 TAC §11.1007(3), Supplemental Credit Applications must include updated exhibits and supporting information required under §11.204(7) of this chapter (relating to Required Documentation for Application Submission), along with construction contracts or contractor bids with a detailed schedule of values to support the Development Cost Schedule. The Financing Narrative should describe changes to the financial structure of the Supplemental Credit Application since the Original Application was submitted. Applicants should utilize 2021 rents in their updated exhibits; any resulting changes to operating expenses must include an explanation and rationale for the changes. Requests must include evidence from the Applicant's equity investor that the additional credits will be purchased and state the dollar value associated with that purchase. Eligible cost increases are not limited to construction costs, however, all cost increases must be substantiated. Supplemental Credit Applications that include Rehabilitation or Adaptive Reuse activities must include a letter from the Original Application Scope and Cost Review provider certifying that the scope of the project has not changed from the Original Application; the Development Cost Schedule must be supported by either: (A) construction contracts or labor bids; or (B) an updated Scope and Cost Review Supplement.



= EFFECTIVE GROSS MONTHLY INCOME  
 x 12 = EFFECTIVE GROSS ANNUAL INCOME

80,263  
 963,158

TC 212432%

If a revised form is submitted, date of submission:

### Rent Schedule (Continued)

		% of LI	% of Total	
HOUSING TAX CREDITS	TC20%			0
	TC30%	12%	10%	9
	TC40%			0
	TC50%	40%	34%	31
	TC60%	49%	42%	38
	TC70%			0
	TC80%			0
	HTC LI Total			78
	EO			0
	MR	15%	13%	12
	MR Total		13%	12
	Total HTC Units			
DIRECT LOAN (NHTF)	HTF30%			0
	NHTF LI Total			0
	MR			0
	MR Total			0
	HTF Total			0

		% of LI	% of Total	
MORTGAGE REVENUE BOND  TDHCA ISSUER ONLY	MRB20%			0
	MRB30%			0
	MRB40%			0
	MRB50%			0
	MRB60%			0
	MRB70%			0
	MRB80%			0
	MRB LI Total			0
	MRBMR			0
	MRBMR Total			0
MRB Total				0
DIRECT LOAN (HOME, TCAP RF, and/or NSP1 PI)	30%			0
	40%			0
	LH/50%			0
	HH/60%			0
	HH/80%			0
	Direct Loan LI Total			0
				0
	Direct Loan Total			0
OTHER			0	
Total OT Units				0

BEDROOMS	0			0
	1			39
	2			34
	3			17
	4			0
	5			0

ACQUISITION + HARD		DO NOT USE THIS CALCULATION TO
Cost Per Sq. Ft	#####	SCORE POINTS UNDER 11.9(e)(2). At
HARD		the end of the Development Cost
Cost Per Sq. Ft	#####	Schedule, you will have the ability to
BUILDING		adjust your eligible costs to qualify.
Cost Per Sq. Ft	#####	Points will be entered there.

AVERAGE INCOME DISTRIBUTION TOOL

Total LI Units		Number of 30% Units used for 30% Boost (9% Only)	
Number of LI Units to be	0	AMFI Average Committed to for Points (9% Only)	
Development AMFI Average	0	Average will not calculate unless a number is entered for boost Units (even if it is zero) and the table below is completed.	

Unit Type (Number of Bedrooms)	AMFI Brackets							Total Units by Unit Type (# of Bedrooms)
	20	30	40	50	60	70	80	
	30% Units entered must be reduced by the number of Units used for 30% boost. (9% Only)							
0								0
1								0
2								0
3								0
4								0
5								0
<b>Total Units</b>	0	0	0	0	0	0	0	<u>0</u>

This form has an inconsistency of	0	Units
-----------------------------------	---	-------

Are you missing Units? Do you have too many?

If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations MUST be dispersed across all Unit Types in a manner that does not violate fair housing laws.

**ANNUAL OPERATING EXPENSES**

<b>General &amp; Administrative Expenses</b>			
Accounting	\$	12,000	
Advertising	\$	5,000	
Legal fees	\$	5,000	
Leased equipment	\$		
Postage & office supplies	\$	12,000	
Telephone	\$	8,000	
Other	\$	Credit Checks, professional fees	10,000
Other	\$	describe	
<b>Total General &amp; Administrative Expenses:</b>			\$ 52,000
<b>Management Fee:</b>	<b>Percent of Effective Gross Income:</b>	<b>4.00%</b>	<b>\$ 38,526</b>
<b>Payroll, Payroll Tax &amp; Employee Benefits</b>			
Management	\$	65,000	
Maintenance	\$	54,000	
Other	\$	Employee Benefits	20,000
Other	\$	describe	
<b>Total Payroll, Payroll Tax &amp; Employee Benefits:</b>			\$ 139,000
<b>Repairs &amp; Maintenance</b>			
Elevator	\$	5,000	
Exterminating	\$	5,000	
Grounds	\$	5,000	
Make-ready	\$	20,000	
Repairs	\$	20,000	
Pool	\$		
Other	\$	Fire Alarms	5,000
Other	\$	describe	
<b>Total Repairs &amp; Maintenance:</b>			\$ 60,000
<b>Utilities (Enter Only Property Paid Expense)</b>			
Electric	\$	2018 Park Tower UW Report	20,000
Natural gas	\$		
Trash	\$	2018 Park Tower UW Report	9,000
Water/Sewer	\$	2018 Park Tower UW Report	33,000
Other	\$	describe	
Other	\$	describe	
<b>Total Utilities:</b>			\$ 62,000
<b>Annual Property Insurance:</b>	<b>Rate per net rentable square foot:</b>	<b>\$ 0.48</b>	<b>\$ 38,710</b>
<b>Property Taxes:</b>			
Published Capitalization Rate:		Source:	
Annual Property Taxes	\$		85,520
Payments in Lieu of Taxes	\$		
<b>Total Property Taxes:</b>			\$ 85,520
<b>Reserve for Replacements:</b>	<b>Annual reserves per unit:</b>	<b>\$ 250</b>	<b>\$ 22,500</b>
<b>Other Expenses</b>			
Cable TV	\$	10,000	
Supportive Services (Staffing/Contracted Services)	\$	12,000	
TDHCA Compliance fees (\$40/HTC unit)	\$	3,120	
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)	\$		
TDHCA Bond Compliance Fees (TDHCA as Bond Issuer Only - \$25/MRB unit)	\$		
Bond Trustee Fees (ALL Tax-Exempt Bond Developments; entry or explanation required)	\$		
Issuer Ongoing Compliance Fees (entry or explanation required)	\$		
Security	\$	5,000	
Other	\$	describe	
Other	\$	describe	
<b>Total Other Expenses:</b>			\$ 30,120
<b>TOTAL ANNUAL EXPENSES</b>	<b>Expense per unit:</b>	<b>\$ 5871</b>	<b>\$ 528,376</b>
	<b>Expense to Income Ratio:</b>	<b>54.86%</b>	
<b>NET OPERATING INCOME (before debt service)</b>			<b>\$ 434,782</b>
<b>Annual Debt Service</b>			
	\$	DESCRIBE	369,255
	\$		
	\$	Direct loan proposed debt service	
	\$	Local Bond Issuer Admin Fee (entry or explanation required)	
	\$	TDHCA Bond-Issuer Admin Fee (0.10%)	
<b>TOTAL ANNUAL DEBT SERVICE</b>	<b>Debt Coverage Ratio:</b>	<b>1.177</b>	<b>\$ 369,255</b>
<b>NET CASH FLOW</b>			<b>\$ 65,527</b>

If a revised form is submitted, date of submission:

1/26/2022



# 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
INCOME	\$1,017,492	\$1,037,842	\$1,058,599	\$1,079,771	\$1,101,366	\$1,215,997	\$1,342,559
Secondary Income	\$ 23,760	\$ 24,235	\$ 24,720	\$ 25,214	\$ 25,719	\$ 28,395	\$ 31,351
POTENTIAL GROSS ANNUAL INCOME	\$1,041,252	\$1,062,077	\$1,083,319	\$1,104,985	\$1,127,085	\$1,244,393	\$1,373,910
Provision for Vacancy & Collection Loss	(\$78,094)	(\$79,656)	(\$81,249)	(\$82,874)	(\$84,531)	(\$93,329)	(\$103,043)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$963,158	\$982,421	\$1,002,070	\$1,022,111	\$1,042,553	\$1,151,063	\$1,270,867
EXPENSES							
General & Administrative Expenses	\$52,000	\$53,560	\$55,167	\$56,822	\$58,526	\$67,848	\$78,655
Management Fee	\$ 38,526	\$ 39,297	\$ 40,083	\$ 40,884	\$ 41,702	\$ 46,043	\$ 50,835
Payroll, Payroll Tax & Employee Benefits	\$ 139,000	\$ 143,170	\$ 147,465	\$ 151,889	\$ 156,446	\$ 181,363	\$ 210,250
Repairs & Maintenance	\$ 60,000	\$ 61,800	\$ 63,654	\$ 65,564	\$ 67,531	\$ 78,286	\$ 90,755
Electric & Gas Utilities	\$ 20,000	\$ 20,600	\$ 21,218	\$ 21,855	\$ 22,510	\$ 26,095	\$ 30,252
Water, Sewer & Trash Utilities	\$ 42,000	\$ 43,260	\$ 44,558	\$ 45,895	\$ 47,271	\$ 54,800	\$ 63,529
Annual Property Insurance Premiums	\$ 38,710	\$ 39,871	\$ 41,067	\$ 42,299	\$ 43,568	\$ 50,508	\$ 58,552
Property Tax	\$ 85,520	\$ 88,086	\$ 90,728	\$ 93,450	\$ 96,254	\$ 111,584	\$ 129,357
Reserve for Replacements	\$ 22,500	\$ 23,175	\$ 23,870	\$ 24,586	\$ 25,324	\$ 29,357	\$ 34,033
Other Expenses	\$ 30,120	\$ 31,024	\$ 31,954	\$ 32,913	\$ 33,900	\$ 39,300	\$ 45,559
TOTAL ANNUAL EXPENSES	\$528,376	\$543,842	\$559,765	\$576,157	\$593,033	\$685,186	\$791,777
NET OPERATING INCOME	\$434,782	\$438,579	\$442,305	\$445,954	\$449,521	\$465,877	\$479,090
DEBT SERVICE							
First Deed of Trust Annual Loan Payment	\$369,255	\$369,255	\$369,255	\$369,255	\$369,255	\$369,255	\$369,255
Second Deed of Trust Annual Loan Payment							
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
ANNUAL NET CASH FLOW	\$65,527	\$69,324	\$73,050	\$76,700	\$80,266	\$96,623	\$109,835
CUMULATIVE NET CASH FLOW	\$65,527	\$134,852	\$207,902	\$284,602	\$364,868	\$807,091	\$1,323,236
Debt Coverage Ratio	1.18	1.19	1.20	1.21	1.22	1.26	1.30
Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Heather Olson  
Signature, Authorized Representative,  
Construction or Permanent Lender

Heather Olson  
Printed Name  
1/25/2022  
Date

Phone: 561-998-8170  
Email: heather.olson@berkadia.com

Signature, Authorized Representative,

Jason Aldridge  
Printed Name

1/25/2022  
Date

If a revised form is submitted, date of submission:

1/25/2022



**Site Work Cost Breakdown**

This form must be submitted with the Development Cost Schedule as justification of Site Work costs.

Column A: The Site Work activity reflected here must match the Site Work activity reflected in the Development Cost Schedule.

Columns B and C: In determining actual construction cost, two different methods may be used:

The construction costs may be broken into labor (Column B) and materials (Column C) for the activity; OR

The use of unit price (Column B) and the number of units (Column C) data for the activity.

Column D: To arrive at total construction costs in Column D:

If based on labor and materials, add Column B and Column C together to arrive at total construction costs.

If based on unit price measures, Column B is multiplied by Column C to arrive at total construction costs.

Column E: Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity.

Column F: Engineering/architectural costs must be broken out by the Site Work activity.

Column G: Figures for Column G, Total Activity Cost, are obtained by adding together Columns D, E, and F to get the total costs.

**\*\*This form must be completed by a Third-Party engineer licensed to practice in the State of Texas. His or her signature and registration seal must be on the form.\*\***

**For Site Work costs that exceed \$15,000 per Unit and are included in Eligible Basis, a CPA letter allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible must be submitted behind this tab.**

A. Activity	B. Labor or Unit Price	C. Materials or # of Units	D. Total Construction Costs	E. Acquisition Costs	F. Engineering / Architectural Costs	G. Total Activity Costs
Demolition		1	35,000			35,000
Asbestos Abatement (Demolition Only)		1	25,000			25,000
Detention						
Rough grading		1	138,500			138,500
Fine grading		1	140,750			140,750
On-site concrete		1	27,500			27,500
On-site electrical						
On-site paving		1	125,000			125,000
On-site utilities		1	230,000			230,000
Decorative masonry						
Bumper stops, striping & signs		1	15,000			15,000
Sprinkler, site fencing, staking		1	85,500			85,500
<b>Total</b>						<b>\$ 822,250</b>

Signature of Registered Engineer

NEAL HILDEBRANDT  
Printed Name

Seal

Date

12/10/21

If a revised form is submitted, date of submission: \_\_\_\_\_





FINANCING:

CONSTRUCTION LOAN(S)<sup>3</sup>

Interest	833,765		833,765
Loan origination fees	118,434		118,434
Title & recording fees	269,396		269,396
Closing costs & legal fees	101,582		101,582
Inspection fees			
Credit Report			
Discount Points			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

PERMANENT LOAN(S)

Loan origination fees	64,335		
Title & recording fees			
Closing costs & legal	25,000		
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

BRIDGE LOAN(S)

Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

OTHER FINANCING COSTS<sup>3</sup>

Tax credit fees	36,653		
Tax and/or bond counsel			
Payment bonds			
Performance bonds			
Credit enhancement fees			
Mortgage insurance premiums			
Cost of underwriting & issuance			
Syndication organizational cost			
Tax opinion			
Refinance (existing loan payoff amt)			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
Subtotal Financing Cost	\$1,449,165	\$0	\$1,323,177

DEVELOPER FEES<sup>3</sup>

Housing consultant fees <sup>4</sup>			
General & administrative			
Profit or fee	2,046,687		2,046,687
Subtotal Developer Fees	\$2,046,687	\$0	\$2,046,687

10.61%

10.98%

RESERVES

Rent-up - new funds			
Rent-up - existing reserves*			
Operating - new funds			
Operating - existing reserves*	244,048		
Replacement - new funds			
Replacement - existing reserves*			
Escrows - new funds			
Escrows - existing reserves*			
Subtotal Reserves	\$244,048	\$0	\$0

\*Any existing reserve amounts should be listed on the Schedule of Sources.

TOTAL HOUSING DEVELOPMENT COSTS <sup>5</sup>	\$24,521,794	\$0	\$20,680,938
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BREAKDOWN MUST BE PROVIDED



## Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds				
		Bond Amount		Bond Amount				
	Tax Exempt Bonds							
	Taxable Bonds							

**Debt**

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period				
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0	
PNC		\$15,797,151	3.50%	1					
Berkadia					\$ 8,265,888	3.20%	40	15	1

**Third Party Equity**

NEF	HTC	\$ 1,667,626	\$ 3,040,151		\$ 15,423,998				0.925

**Grant**

City of Fort Worth	§11.9(d)(2)LPS Contribution	\$ 2,500							

**Deferred Developer Fee**

HTG Jacksboro Developer					\$ 831,908				
-------------------------	--	--	--	--	------------	--	--	--	--

**Other**

	Direct Loan Match								
Total Sources of Funds		\$ 18,839,802			\$ 24,521,794				
Total Uses of Funds					\$ 24,521,794				



**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).

Construction financed through PNC Bank via a construction loan in the amount of \$15,797,151 with a 24-month construction term, at a 3.50% interest rate. The city of Ft. Worth has committed to \$2,500 in fee waivers during the construction period. The Park Tower will also be financed through the initial tax credit award of \$1,462,830 LIHTC and the additional \$102,398 credits reflected in this application for a total LIHTC award of \$1,565,228. NEF will purchase the original and supplemental tax credits at the credit price of \$0.925 for a total equity contribution of \$15,423,998. Permanent financing from Berkadia in the amount of \$8,265,888 sized at a 40- year amort. and 15-yr. term at an interest rate of 3.2%. HTG Jacksboro Developer will commit \$831,908 in deferred fee which is repayable in fifteen years.

Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.

There are no current replacement reserve accounts.

Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

N/A

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

*Heather Olson*

Signature, Authorized Representative, Construction or Permanent Lender

Heather Olson

Printed Name

1/25/2022

Date

Telephone: 561-998-8170

Email address: heather.olson@berkadia.com

If a revised form is submitted, date of submission:

1/25/2022

## Financial Capacity, Owner Equity, and Loan-to-Cost Requirements

[10 TAC §13.8(c)(9) and (10) and/or 10 TAC §11.204(7)(C) as applicable ]

### Financial Capacity (10 TAC §13.8(c)(9))

If the Department's Direct Loan amounts to more than 50% of the Total Housing Development Cost, except for Developments also financed through the USDA §515 program, the Application MUST include:

- A letter from a Third Party Certified Public Accountant verifying the capacity of the Applicant, Developer, or Development Owner to provide at least 10% of the Total Housing Development Cost as a short term loan for Development; OR
- Evidence of a line of credit or equivalent tool in the sole determination of the Department equal to at least 10% of the Total Housing Development Cost from a financial institution that is available for use during the proposed development activities.

### Owner Equity and Appraisal Requirements (10 TAC §13.8(c)(10))

If the Direct Loan is the only source of Department funding for the Development (no HTC being requested), the Development Owner MUST provide:

- equity in an amount not less than 10% of Total Housing Development Costs; and
- evidence through submission of this Application that the Direct Loan amount requested is not greater than 80% of the Total Housing Development Costs

### Owner Equity Requirements for ALL Applications (10 TAC §11.204(7)(C))

As a result of providing owner equity in an amount greater than 5% of Total Housing Development Costs, the following must be provided in accordance with 10 TAC §11.204(7)(C):

- A letter - not older than 6 months from the date the of Application submission - from a Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed or pledged; and
- A letter - not older than 6 months from the date the of Application submission - from the Development Owner's bank or banks confirming that such funds are and will remain available at commitment and until the required investment is completed.



## Match Funds (Multifamily Direct Loan Applications Only) [§13.2(9)]

Match as required by the applicable NOFA must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of Multifamily Direct Loan funds. The information provided must be consistent with all other documentation in the Application.

Indicate the amount and source of Match funds in the appropriate spaces in the table below.

Generally, a Related Party contribution to the Development is not considered eligible Match. Please see 10 TAC §13.2(9) as well as the Match Guidance below.

Type of Match Pledged	Pledged Amount	Source of Funds
Non-Federal Grants		
Waived, foregone or deferred fees and charges (ex: debris removal and container fees, tap fees, building permits, other mandatory fees charged by the local municipality)  **CANNOT INCLUDE DEVELOPER FEES**		
Below Market Interest Rate Loan		
Property Tax Abatement		
Donated Non-Professional Labor		
Non-Federally Funded Infrastructure		
Rental Value of Donated Use of Site Preparation or Construction Equipment		
Donated Construction Materials		
Donated Site Preparation		
Donated Demolition Services		
Donated Real Property		
Total Value of Match Pledged	\$ -	
Total Amount of MF Direct Loan funds Requested	\$ -	
Percentage of MF Direct Loan Funds to be Matched (Total Value of Match /MF Direct Loan Funds Requested)	#DIV/0!	

## Match Guidance

### Non-Federal, Below Market Financing

Below-market interest rate financing can be used toward MF Direct Loan Applicants' Match obligation. For MF Direct Loan Developments, the market interest rate is defined as the yield on 10-year Treasury Note on the date of Application submission, plus 300 basis points. For example, the 10-year Treasury yield on 11/10/2010 was 2.65%; for an Application submitted on this date, the market interest rate would be 5.65%.

In order to calculate Match contributions when below-market financing is utilized, the net present value (NPV) of the interest savings should be calculated, using the market interest rate as the discount rate.

#### Example:

Texas Development Co. received a financing commitment from a non-profit lender to assist in its Development. Texas Development Co. agreed to borrow \$100,000 at 4% interest, with a 30 year term and 30 year amortization. They then submitted a complete MF Direct Loan Application on 11/10/2010. The steps Texas Development Co. should take to calculate their Match contribution from this below-market financing are below:

Loan Amount	\$100,000
Monthly Payment at Market Interest Rate (5.65%)	\$577.24
Monthly Payment at Below-Market Rate (4%)	\$477.42
Interest Savings (per month)	\$99.82
NPV (360 months, 5.65%)	<b>\$17,292.85</b>

\*\*\* Texas Development Co. can claim \$17,292.85 in Match contribution from its below-market financing commitment.\*\*\*

### Property Tax Abatements

Match stemming from property tax abatements should be calculated according to the net present value of the taxes foregone by the taxing entity. The discount rate used will be the yield on the Treasury notes with a maturity closest to the number of years the tax abatement is in effect.

#### Example:

Annual Tax Abatement	\$5,000
Term	10 years
Discount Rate (10 year Treasury Yield)	2.65%
Net Present value	<b>\$43,423.07</b>

\*\*\*Texas Development Co.'s eligible match from its property tax abatement is \$43,423.07.\*\*\*

### Donated Services

Donated services such as those provided by a General Contractor, subcontractor or architect (among other service providers) can be considered eligible Match. However, a principal of the contractor, subcontractor, or architect providing the contribution cannot be related to the Development Owner or member of the Development Owner.

In order to document this Match in the Application, the Applicant must submit, at a minimum, a signed letter from the company committing to provide the Match identifying the value of the donated services that are being committed. Once an award is made, this Match must be documented in a formal service agreement or contractor/subcontractor agreement.

# Supporting Documents Checklist

ALL SUPPORTING DOCUMENTS MUST BE CONSISTENT WITH THE SOURCES AND USES

- Executed Pro Forma from Permanent or Construction Lender
- Evidence of all Permanent and Construction Financing (term sheets, loan agreements)  
NOTE: Term sheets and/or loan documents from debt and equity providers must include a statement confirming they are aware the Applicant intends to elect income averaging. If the term sheet speaks to unit designations, ensure those unit designations are consistent with the rent schedule and site plan.
- Evidence of any Gap Financing, terms included
- Evidence of any Owner Contributions, with financial support if required
- Evidence of Equity Financing (HTC applications only)
- Letter from Texas Historical Commission (THC) indicating preliminary eligibility for historic (rehabilitation) tax credits and documentation of Certified Historic Structure status as detailed in QAP §11.9(e)(6).
- Letter from Local Political Subdivision evidencing a loan, grant, reduced fees or contribution of other value to benefit the Development. [QAP §11.9(d)(2)]
- Evidence of Rental Assistance/Subsidy
- Construction contracts, construction bids, and/or an updated Scope and Cost Review Supplement



## 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
INCOME	\$1,017,492	\$1,037,842	\$1,058,599	\$1,079,771	\$1,101,366	\$1,215,997	\$1,342,559
Secondary Income	\$ 23,760	\$ 24,235	\$ 24,720	\$ 25,214	\$ 25,719	\$ 28,395	\$ 31,351
POTENTIAL GROSS ANNUAL INCOME	\$1,041,252	\$1,062,077	\$1,083,319	\$1,104,985	\$1,127,085	\$1,244,393	\$1,373,910
Provision for Vacancy & Collection Loss	(\$78,094)	(\$79,656)	(\$81,249)	(\$82,874)	(\$84,531)	(\$93,329)	(\$103,043)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$963,158	\$982,421	\$1,002,070	\$1,022,111	\$1,042,553	\$1,151,063	\$1,270,867
<b>EXPENSES</b>							
General & Administrative Expenses	\$52,000	\$53,560	\$55,167	\$56,822	\$58,526	\$67,848	\$78,655
Management Fee	\$ 38,526	\$ 39,297	\$ 40,083	\$ 40,884	\$ 41,702	\$ 46,043	\$ 50,835
Payroll, Payroll Tax & Employee Benefits	\$ 139,000	\$ 143,170	\$ 147,465	\$ 151,889	\$ 156,446	\$ 181,363	\$ 210,250
Repairs & Maintenance	\$ 60,000	\$ 61,800	\$ 63,654	\$ 65,564	\$ 67,531	\$ 78,286	\$ 90,755
Electric & Gas Utilities	\$ 20,000	\$ 20,600	\$ 21,218	\$ 21,855	\$ 22,510	\$ 26,095	\$ 30,252
Water, Sewer & Trash Utilities	\$ 42,000	\$ 43,260	\$ 44,558	\$ 45,895	\$ 47,271	\$ 54,800	\$ 63,529
Annual Property Insurance Premiums	\$ 38,710	\$ 39,871	\$ 41,067	\$ 42,299	\$ 43,568	\$ 50,508	\$ 58,552
Property Tax	\$ 85,520	\$ 88,086	\$ 90,728	\$ 93,450	\$ 96,254	\$ 111,584	\$ 129,357
Reserve for Replacements	\$ 22,500	\$ 23,175	\$ 23,870	\$ 24,586	\$ 25,324	\$ 29,357	\$ 34,033
Other Expenses	\$ 30,120	\$ 31,024	\$ 31,954	\$ 32,913	\$ 33,900	\$ 39,300	\$ 45,559
TOTAL ANNUAL EXPENSES	\$528,376	\$543,842	\$559,765	\$576,157	\$593,033	\$685,186	\$791,777
NET OPERATING INCOME	\$434,782	\$438,579	\$442,305	\$445,954	\$449,521	\$465,877	\$479,090
<b>DEBT SERVICE</b>							
First Deed of Trust Annual Loan Payment	\$369,255	\$369,255	\$369,255	\$369,255	\$369,255	\$369,255	\$369,255
Second Deed of Trust Annual Loan Payment							
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
<b>ANNUAL NET CASH FLOW</b>	\$65,527	\$69,324	\$73,050	\$76,700	\$80,266	\$96,623	\$109,835
<b>CUMULATIVE NET CASH FLOW</b>	\$65,527	\$134,852	\$207,902	\$284,602	\$364,868	\$807,091	\$1,323,236
Debt Coverage Ratio	1.18	1.19	1.20	1.21	1.22	1.26	1.30
Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

\_\_\_\_\_  
Signature, Authorized Representative,  
Construction or Permanent Lender

\_\_\_\_\_  
Signature, Authorized Representative,

Heather Olson

\_\_\_\_\_  
Printed Name

1/25/2022

\_\_\_\_\_  
Date

Jason Aldridge

\_\_\_\_\_  
Printed Name

Phone: \_\_\_\_\_

561-998-8170

Email: \_\_\_\_\_

heather.olson@berkadia.com

\_\_\_\_\_  
Date

1/25/2022

If a revised form is submitted, date of submission: \_\_\_\_\_

1/25/2022

# 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

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CUMULATIVE NET CASH FLOW	\$65,527	\$134,852	\$207,902	\$284,602	\$364,868	\$807,091	\$1,323,236
Debt Coverage Ratio	1.18	1.19	1.20	1.21	1.22	1.26	1.30
Other (Describe)							
Other (Describe)							

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Heather Olson  
Signature, Authorized Representative,  
Construction or Permanent Lender

Heather Olson  
Printed Name  
1/25/2022  
Date

Phone: 561-998-8170  
Email: heather.olson@berkadia.com

Signature, Authorized Representative,

Jason Aldridge  
Printed Name

1/25/2022  
Date

If a revised form is submitted, date of submission:

1/25/2022





January 25, 2022

Matthew Rieger  
President & CEO  
Housing Trust Group  
3225 Aviation Avenue, 6<sup>th</sup> Floor  
Coconut Grove, FL 33133

**RE: COMMITMENT FOR A TWENTY-FOUR (24) MONTH FORWARD COMMITMENT FIXED RATE MORTGAGE LOAN  
FREDDIE MAC MULTIFAMILY TAH UNFUNDED FORWARD RATE LOCK FOR 9% LOW INCOME HOUSING TAX CREDIT  
PROGRAM**

**PROPERTY: THE PARK TOWER APARTMENT HOMES, FORT WORTH, TX 76114  
BERKADIA LOAN NUMBER: 254235**

Dear Mr. Rieger:

**Program Summary**

Berkadia Commercial Mortgage LLC ("**Lender**") intends to commit to enter in to a twenty-four (24) month forward commitment (or such longer period elected by the Borrower as described herein) to make a loan ("**Loan**") through the Federal Home Loan Mortgage ("**Freddie Mac**") TAH Unfunded Forward Commitment Program (the "**Freddie Mac Program**" or "**Program**"). The Loan is requested by Housing Trust Group ("**Sponsor**") in connection with the construction of the property identified above ("**Property**"), pursuant to any Federal, State, or local requirements concerning the allocation of Low-Income Housing Tax Credits.

Lender will issue a written forward commitment ("**Loan Commitment**") approving the Loan only if Borrower and the Loan satisfy all terms and conditions of this Application, certain additional requirements of Freddie Mac, and the consent of the requisite Low Income Housing Tax Credit allocating authorities and/or Section 42 administrators.

Upon the satisfaction of the Conditions to Conversion to be described in a Loan Commitment issued by the Lender and the Construction Phase Financing Agreement to be delivered on an Origination Date (the "**Construction Phase Financing Agreement**") among Freddie Mac, the Lender, the Construction Lender and the Borrower, the Loan will be funded by Lender to take out the Construction Lender and convert (the "**Conversion**") to the permanent phase (the "**Permanent Phase**"). Thereafter, the Lender will deliver the Loan to Freddie Mac for purchase pursuant to the Program. The date on which the Conditions to Conversion are satisfied and the Seller purchases the Loan is referred to herein as the "**Conversion Date**".

**A. FINANCIAL TERMS**

Proposed Maximum Loan Amount:	\$8,265,888 (" <b>Loan Amount</b> ").
Commitment Period:	Twenty-Four (24) months. (Subject to the terms provided by Freddie Mac, the Commitment Period may be extended for up to 6 months subject to Freddie Mac approval, first extension is free. Cost of additional extensions to be determined by Freddie Mac.)
Maximum Loan-to-Value:	85% of the fair market value as determined by Lender and Freddie Mac.
Minimum Debt Service Coverage Ratio:	1.15x, based upon the final underwritten net operating income for the Property, as determined by Lender and Freddie Mac.
Estimated NOI:	\$434,782
Loan Term:	Fifteen (15) years (" <b>Loan Term</b> "), commencing on the Conversion Date.
Amortization:	Forty (40) years amortization schedule.
Interest-Only Period:	None



Treasury Floor: The yield used as the underlying rate for the note rate will be the greater of: (1) the yield rate on the Index at the time of rate lock or (2) the Treasury Floor as determined by Freddie Mac.

Interest Rate: A fixed interest rate for the Loan Term will be determined by Freddie Mac based on market rates prevailing at the time of Rate Lock (defined below in Section B). The interest rate for the Permanent Phase will be based on (i) the greater of yield on the U.S. Treasury Securities with a maturity date of ten (10) years from the date of Rate Lock or the Treasury Floor, plus (ii) a spread of approximately 170 basis points (1.70%). As of the date of this Term Sheet, the expected interest rate for the Permanent Phase is 3.20%.

Forward Commitment Period (Months)	Term (Years)	10YR UST as of 12/8/2021	Freddie Mac Spread (incl. Servicing)	Expected Note Rate
24	15	1.50%	1.70%	3.20%

Interest for the Loan Term will be paid in arrears and calculated based on an actual/360 calculation.

Prepayment:

Term (months)	Prepayment Type
174	YM
3	1%
3	Par

Payment Terms:

Monthly payments of principal and interest will be due and payable on the first (1st) day of each month through the remaining Loan Term. All unpaid principal, unpaid charges and accrued interest will be due in full upon expiration of the Loan Term. All payments of principal, interest or required escrow/reserve amounts not received within ten (10) calendar days following the due date of such payments, will bear a late payment charge for each month during which a delinquency exists equal to lesser of (i) 5% of the delinquent payment or (ii) the maximum amount permitted by the law of the state where the Property is located.

Any payment of principal, interest or required escrow/reserve amounts that remains delinquent for thirty (30) days or more also will accrue interest at a default interest rate equal to the lesser of (i) 4% above the interest rate in effect for the Loan at the time of such delinquency or (ii) the maximum amount permitted by the law of the state where the Property is located.

LIHTC Investor:

National Equity Fund. The Low-Income Housing Tax Credit ("LIHTC") investor / syndicator, the upper tier investor(s) and, the terms and conditions of the operating or partnership agreement, must be acceptable to Lender and Freddie Mac in all respects including, particularly, as to the timing and conditions to funding of capital contributions. Freddie Mac desires at least 25% of the equity be funded prior to Conversion.

Budget and Contingencies:

The Borrower's construction budget and scope of work must be acceptable to Lender and Freddie Mac in all respects.

**B. LOAN COMMITMENT / RATE LOCK / CLOSING**

Loan Commitment:

A Loan Commitment issued by Lender will require Borrower to lock the interest rate ("**Rate Lock**") for the Permanent Phase prior to a specified deadline ("**Rate Lock Deadline**") and to close the Loan prior to the closing deadline identified in the Loan Commitment ("**Closing Deadline**") unless otherwise extended in the sole and absolute discretion of the Lender with Freddie Mac's prior written permission. If Lender does not provide written permission to extend the Closing Deadline, then Lender has no obligation to extend the Rate Lock Deadline or the Closing Deadline and may require payment of an extension fee should Lender be willing to grant an extension.

**Rate Lock Deposit:** As a condition to Rate Lock, Borrower will be required to pay to Lender by wire transfer of immediately available funds (i) a commitment fee equal to 2.0% of the of the final Loan Amount specified in the Loan Commitment (the "**Commitment Fee**". The Commitment Fee is hereinafter referred to collectively as the "**Rate Lock Deposit**".

If the Loan closes prior to the Closing Deadline, the Rate Lock Deposit, less the Standby Fee, will be refunded to Borrower on the Conversion Date, less any unpaid Due Diligence Expenses (defined below in Section C). Lender may hold back \$10,000 from the Rate Lock Deposit, which will be refunded to Borrower only after all post-delivery conditions imposed by Freddie Mac that require Borrower's action or cooperation are completed to Freddie Mac's satisfaction. If the Loan does not close, the Rate Lock Deposit will be retained and applied to damages; such damages will include, without limitation, Rate Lock breakage provisions to be specified in the Loan Commitment.

**Rate Lock Process / Loan Closing / Damages For Failure to Close After Rate Lock:** Rate Lock is permitted only on business days between 10:00 am and 2:00 pm, eastern time, and only after Lender has received (a) Borrower's written authorization (by e-mail or fax) to Rate Lock and (b) full payment of the Rate Lock Deposit.

Lender may decline to Rate Lock when requested by Borrower (without liability to Borrower) if, in Lender's judgment, substantial conditions of the Loan Commitment (including, without limitation, satisfaction of title insurance, survey, occupancy and rental income requirements) remain to be satisfied at the time Rate Lock is requested or at the Rate Lock Deadline. Lender's agreement to Rate Lock does not mean that Borrower has satisfied all conditions of the Loan Commitment.

Borrower acknowledges that upon Borrower's instruction to Rate Lock, Lender also will lock the rate on the Loan with Freddie Mac. Borrower further acknowledges that if Lender fails to close and deliver the Loan to Freddie Mac, Freddie Mac will suffer damages for locking the spread and taking a position in the financial market, and Freddie Mac will calculate damages in accordance with Freddie Mac standard breakage fee.

**Delivery Assurance:** To ensure performance of Freddie Mac's mandatory delivery obligation, the Commitment shall include: (a) a covenant by Borrower to close the Mortgage with Lender and (b) a requirement for payment by Borrower, upon acceptance of the Permanent Loan Commitment, of a refundable delivery assurance fee in an amount equal to the five percent (5%) of the Maximum Mortgage Amount set forth in the Commitment ("**Delivery Assurance Fee**"). Seller shall deliver the Delivery Assurance Fee to Freddie Mac no later than the first Business Day immediately after the Construction Loan closing. The Delivery Assurance Fee shall be refunded to Borrower upon Conversion. The Delivery Assurance Fee shall be held by Freddie Mac and shall be retained by Freddie Mac if Conversion fails to occur and/or the Mortgage is not delivered to Freddie Mac, unless otherwise refunded to Borrower in accordance with the terms of the Commitment.

The Delivery Assurance Fee shall be payable by Borrower in cash, by letter of credit, or by demand promissory note executed by Borrower in favor of Lender ("**Delivery Assurance Note**"), in the amount of the Delivery Assurance Fee. The entire outstanding principal balance of the Delivery Assurance Note, or the appropriate portion of the Delivery Assurance Note, will be due and payable on demand by Lender at such time as Lender is entitled to retain the Delivery Assurance Fee, in whole or in part, in payment of the Borrower Breakage Fee under the terms of the Loan Commitment.

### **C. LOAN SECURITY, ESCROWS DURING THE LOAN TERM, FEES AND EXPENSES**

**Loan Collateral:** The collateral required to secure the Loan will include a first priority (i) mortgage/deed of trust/deed to secure debt encumbering the Property and all appurtenant rights; (ii) security interest in all fixtures, equipment and personal property (tangible and intangible) owned by Borrower and affixed to the Property or used in the operation thereof, including all replacements, additions, after-acquired property and proceeds of the foregoing; (iii) assignment of leases, rents, lease guaranties, and like profits arising from the Property; (iv) pledge of all escrow and reserve accounts established as conditions to the Loan; and (v) an assignment of Rate Cap, if applicable. Borrower must hold fee simple title to the Property.

**Property Use / Minimum Occupancy:** The Property consists of to be constructed 90-unit multifamily apartment project. Construction is expected to be completed by mid-year 2023.

A (i) minimum occupancy of 93% of units leased and physically occupied has been assumed in the initial proforma underwriting. Freddie Mac will require a minimum of 90% occupancy for 90 days prior to conversion. Borrower will be required to demonstrate compliance by submission of a certified rent roll. No new lease can have

an initial term less than six (6) months or greater than two (2) years.

**Property Insurance:** Borrower must maintain insurance throughout the Loan Term which satisfies the requirements of the Freddie Mac Program.

**Loan Origination Fee:** 1.00% (100 basis points) of the Loan Amount is earned by Lender and due from Borrower as a loan origination fee ("**Loan Origination Fee**") upon Borrower's acceptance of a Loan Commitment. Lender agrees to defer collection of the Loan Origination Fee until Closing, at which time full payment is due.

**Conversion Fee:** \$10,000 due upon conversion for expenses in connection with Conversion underwriting expenses.

**Freddie Mac Application Fee:** A non-refundable application fee in the amount of \$8,266 (greater of 10 basis points of loan amount or \$3,000) is due when an application is signed with Freddie Mac ("**Freddie Mac Application Fee**").

**Due Diligence Expenses** Borrower will be required to pay Lender any "**Due Diligence Expenses**" identified at time of application associated with third party reports and Lender underwriting expenses, estimate at \$25,000.

"**Due Diligence Expenses**" consist of all costs and expenses associated with inspections, reports and reviews deemed necessary or appropriate by Lender to underwrite the Loan, Borrower and its principals in accordance with the Freddie Mac Program, including, but not limited to: a MAI property appraisal, phase I (and phase II if necessary) environmental site assessment along with any asbestos, lead based paint, and/or toxic mold testing); review of operations and maintenance plans; wetlands investigation; Pre Construction Plan and Cost Review (including a seismic inspection and a \$500 seismic review fee required by Freddie Mac, where applicable); flood hazard search; third-party zoning and use compliance review/report; financial analyses of the Property (including a review of the standard residential unit lease form and any commercial leases of the Property); insurance review and analysis; site inspection by a Lender representative; review of monthly rent rolls and operating statements for the Property from the Origination Date until the Conversion Date; credit history searches and financial statements review on Borrower, its principals and guarantors of the Loan.

**Lender Legal Fees / Deposit:** "**Lender's Legal Fees**" anticipated to be \$25,000 plus expenses provided that (i) Borrower's structure, as reflected in its organizational documents, meets the single purpose entity requirements defined in Schedule A ("**SPE Requirements**") without substantive restructuring and modification, (ii) the Loan will be documented using the form loan documents required by the Freddie Mac Program ("**Loan Documents**"), and the Loan Documents and third party agreements are not significantly negotiated; (iii) additional legal review is not required during Lender's due diligence review; (iv) all closing requirements requested by Lender's counsel are timely submitted for review; (v) title, survey or other legal difficulties are not encountered; and (vi) the Loan structure does not require additional legal services to reduce recording expenses. Lender Legal Fees represent the costs of counsel for both the Lender and Freddie Mac.

**Title Insurance:** Borrower must provide (i) a commitment for mortgagee title insurance and (ii) a proforma of the title policy to be issued that will be effective as of the Conversion Date ("**Proforma**"), both of which satisfy all title insurance requirements of the Freddie Mac Program. The Proforma must include all endorsements required under the Freddie Mac Program that are issued in the state where the Property is located (including, without limitation, an ALTA 3.1 zoning endorsement and a usury endorsement if the Loan Amount is \$25,000,000 or greater). Borrower will be required to pay all costs and expenses associated with obtaining mortgagee title insurance for Lender, all recording and filing fees necessary to perfect Lender's interest in the loan collateral and to record the assignment sale of the Loan to Freddie Mac, all note, mortgage or other taxes arising with respect to the Loan (if any), and all amounts necessary to discharge any liens, judgments, or unpaid real estate taxes or assessments which would be a lien on the Property prior to Lender's security

**Survey:** Borrower must provide an as-built ALTA survey of the Property acceptable to Lender, which satisfies all survey requirements of the Freddie Mac Program including, without limitation, the required surveyor's certification. The survey must be dated no more than ninety (90) days prior to the Conversion Date.

The provisions of this Term Sheet are provided for the sole purpose of demonstrating our preliminary commitment to provide a forward commitment for permanent loan debt to this project contingent upon your award of Low Income Housing Tax Credits. The terms referenced herein are subject to completion of our standard due diligence process, review and approval by Freddie Mac and certain other conditions and requirements to be determined at a later date which will be confirmed in writing by Berkadia.

On behalf of Berkadia Commercial Mortgage LLC, we appreciate the opportunity to continue our partnership. If you should have any questions, please feel free to call me at 561-998-8170 or e-mail [heather.olson@berkadia.com](mailto:heather.olson@berkadia.com).

Berkadia Commercial Mortgage LLC



By: \_\_\_\_\_  
Heather Olson, Managing Director – Affordable Housing  
Authorized Representative



December 10, 2021

VIA EMAIL

Matthew Rieger  
Manager of Managing Member  
HTG Jacksboro, LLC  
3225 Aviation Ave, 6th Floor  
Coconut Grove, FL 33133

**Re: Construction Loan  
Park Tower  
Fort Worth, Tarrant County, Texas**

Dear Val,

I am pleased to provide you with PNC Bank's (the "Lender") proposal to provide a \$15,797,151 Construction Loan (the "Credit Facility") for Park Tower, a 90-unit new construction affordable housing development located in Fort Worth, Tarrant County, Texas, subject to the following terms and conditions:

\_\_\_\_\_  
Borrower HTG Jacksboro, LLC, a Texas limited liability company (the "Borrower").

\_\_\_\_\_  
Guarantor(s) Guarantees of completion and repayment during the development period shall be provided by persons or entities acceptable to the Lender. The developer shall provide a guarantee of lien free construction.

\_\_\_\_\_  
Credit Facility Construction: \$15,797,151

\_\_\_\_\_  
Term of Loan The Construction Loan period will be twenty-four (24) months.

\_\_\_\_\_  
Interest Rate Construction Loan: 3.50%

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Commitment Fees  
(Paid at Closing)

Construction Loan: 0.50%

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Collateral

The Credit Facilities shall be secured by a first priority fee mortgage on the land associated with the Project and all improvements to be constructed thereon. First priority assignment of leases, rents and income from the Project. First priority perfected assignment of the construction contract, subcontracts, architectural agreements, plans and specifications, permits and all other construction-related documents. First priority perfected security interest in all other assets of the Borrower related to the Project.

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Environmental  
Indemnity

The Borrower, Guarantor and other persons or entities specified by Lender shall indemnify and hold the Lender harmless from all liability and costs relating to the environmental condition of the Project and the presence thereon of hazardous materials.

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Appraisal Reports  
and Debt Service  
Coverage

Lender must receive an appraisal report ("Appraisal Report") satisfactory to it in all respects within 90 days prior to the Construction Loan closing date. The Appraisal Report will be ordered by Lender from an appraisal firm selected by Lender which has either the "M.A.I." designation or is State Certified. The maximum loan-to-value based upon achievable restricted rents is 90%, and the debt service coverage ratio shall be consistent with Lender's policies.

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Subordinated Debt

In addition to the construction loan, subordinated debt will be allowed subject to advance written consent of the Lender. All secondary financing shall be subordinate in all respects to the Lender's loans.

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Representation  
Warranties, and  
Documentation

Standard representations and warranties, terms and conditions, and loan documents as are typical in this type of financing as may be required by Lender. Borrower will make usual representations and warranties as of the Construction Loan closing and the date of conversion to the Term Loan and in connection with each advance including, but not limited to, corporate existence, compliance with laws, enforceability, true title to properties, environmental protection, no material litigation, ERISA compliance, insurance, absence of default and absence of material adverse change, and availability of low income housing tax credits.

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Closing

Lender's obligation to close the Credit Facilities is subject to the Lender's receipt

of all necessary fees and closing costs and review of the following reports and information, all of which are to be in form and substance satisfactory to Lender and which shall be provided no later than ninety (90) days from the date the tax credits are reserved or allocated: plans and specifications and construction contract (providing for payment and performance bonds as may be required by Lender) approved by Lender's inspecting architect; final budget demonstrating adequate funds to develop the Project from sources acceptable to Lender; Phase I environmental report; title insurance; survey; zoning; permits; opinions of counsel; evidence of reservation or allocation of tax credits; market study demonstrating feasibility satisfactory to Lender; financial statements of, and other information relating to the business activities of, sponsor, developer, guarantors and any principal with a material financial ownership interest in the Project or the foregoing parties, (collectively the "Development Parties"), which is satisfactory to Lender; satisfactory progress and performance of other projects developed by the Development Parties and absence of prior default by any of the Development Parties with respect to any credit or equity facility provided by Lender; and such other information which Lender may require or which are customary in similar transactions.

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Loan Call Protection    The executed loan documents will contain prepayment lockout, defeasance, yield maintenance and/or prepayment penalties.

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Assignment                Borrower may not assign this Proposal or any interest therein without the consent of the Lender.

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Expiration                 This firm Proposal shall expire automatically the earlier of June 30, 2022 or when the Borrower is informed that it did not receive an allocation of tax credits, unless extended in writing by Lender.

Lender's obligation to provide the requested financing is expressly conditioned on the fact that no information submitted to Lender in connection with the Credit Facilities shall prove to be false or misleading in any material respect, and that no bankruptcy, insolvency, receivership, or any other debtor's relief proceedings shall be commenced by or against the Borrower.

Thank you for the opportunity to be of service to you. Should you have any questions, please do not hesitate to contact me.

Sincerely,



---

Nora Keane  
Vice President  
PNC Bank, N.A.



January 25, 2022

Valentin DeLeon  
Housing Trust Group, LLC  
7035 Bee Caves Road, Suite 203  
Austin, TX 78746

**Re: The Park Tower**

Dear Mr. DeLeon:

National Equity Fund, Inc. (NEF) acts as the Limited Partner in the above referenced project and acknowledges the intent to apply for supplemental 9% tax credits as outlined in the 2022 QAP. This letter serves as a preliminary equity investment commitment to purchase all additional annual credits for a price equal to that of the original award amount (\$0.925 per credit) resulting in a total investment of \$15,423,998 ( $\$1,667,626 \times 10 \times 99.99\% \times \$0.925$ ). We have reviewed the project market study and approved the proposed market rents in the rent schedule. Please note these funds are subject to approval of NEF's Investor Review Committee and the final tax credit investors.

Sincerely,



Jason Aldridge, VP  
National Equity Fund

**CARLETON CONSTRUCTION**  
**Park Tower**  
**Fort Worth, TX**  
**1/20/2022**

**Contract SOV Budget**

Code	Code Description	Prelim. Budget 1/20/2022	Budget / Unit 90	Budget / SF 78,426	TDHCA Divisions	Comments
2145	Other Consultants	10,000.00	111.11	0.13	37	Energy Consultant
2180	Permits & Other Fees	NIC	0.00	0.00	37	
2200	Blueprints	6,500.00	72.22	0.08	37	
3020	Supervision	556,684.00	6185.38	7.10	37	
3030	Temporary Utilities	54,500.00	605.56	0.69	37	
3040	Temporary Office	52,000.00	577.78	0.66	37	\$5K @ 2 months; \$3K @ 14 months
3061	Job Insurance (P/IP Bond)	126,152.00	1401.69	1.61	37	Per bonding company
3070	Porta Can	26,000.00	288.89	0.33	37	
3120	Rental Equipment	21,000.00	233.33	0.27	37	
3240	Small Tools & Supplies	15,000.00	166.67	0.19	37	
<b>3000</b>	<b>GENERAL COND. TOTAL</b>	<b>867,836.00</b>	<b>9,642.62</b>	<b>11.07</b>		6.29%
2148	Project Overhead	214,279.00	2380.88	2.73	38	
3060	Job Insurance (General Liability)	75,000.00	833.33	0.96	38	Per controller
3062	Job Insurance (Builders Risk)	NIC	0.00	0.00	38	Soft Cost
	<b>JOB OVERHEAD TOTAL</b>	<b>289,279.00</b>	<b>3,214.21</b>	<b>3.69</b>		2.10%
4010	Demolition & Removing	A 60,000.00	666.67	0.77	5	Need abatement survey.
4015	Clearing and Grading	A 279,250.00	3102.78	3.56	8	BAL. Site, Deep Moisture Cond (9ft), PVM 1.0"
4060	Landscape	A 81,000.00	900.00	1.03	16	Interior courtyard and perimeter
4070	Sprinkler System	A 27,000.00	300.00	0.34	16	
4090	Site/Perimeter Fencing	A 10,000.00	111.11	0.13	19	Wood fence on top of retaining walls & metal fence for remainder. Plan revision will be needed to eliminate fence.
4130	Water	65,000.00	722.22	0.83	13	
4140	Storm	53,500.00	594.44	0.68	13	Civil design required
4141	Downspout Collection System	A 65,000.00	722.22	0.83	13	Plan is to eliminate internal roof drains and use gutters and downspouts
4200	Sanitary	15,000.00	166.67	0.19	13	Plans show minimal sanitary work needed.
4220	Dry Utilities & Gas Distribution	A 31,500.00	350.00	0.40	11	Oncor plan to be provided
4230	Construction Staking	48,500.00	538.89	0.62	8	ALTA Survey: per owner need to included in cost.
4309	Improvements - Other	600,000.00	6666.67	7.65	16	Replace existing 6" waterline with new 12" waterline on Jacksboro Hwy. - Davis Excavation est. # - 12/9/21-\$600k
	<b>SITework TOTAL</b>	<b>1,335,750.00</b>	<b>14,841.67</b>	<b>17.03</b>		
5010	Concrete Slab & Beam	972,400.00	10804.44	12.40	20	Slab on grade foundation - per Kent, add \$130k to July proposal amount.
5011	Concrete Foundations (Garage)	0.00	0.00	0.00	35	Garage parking levels and retaining walls.
5012	Garage	159,000.00	1766.67	2.03	35	Fire Sprinklers - \$86k, Plumbing - \$60k, Barrier cable posts - \$13k.
5013	Concrete Podium	790,900.00	8787.78	10.08	35	
5016	Foundation Wall Waterproofing	NIC	0.00	0.00	24	Waterproofing needed in garage basement level.
5020	Lightweight Concrete	156,000.00	1733.33	1.99	20	
5030	Retaining Walls	A 37,000.00	411.11	0.47	8	Site walls -gravity stone walls (2 total)
5060	Paving	A 125,000.00	1388.89	1.59	12	Minimal paving. Price includes code required parking signage.
5090	Flatwork	A 27,500.00	305.56	0.35	10	Including pipe bollards (13) - plans note steel bollards
5095	City Sidewalks	5,000.00	55.56	0.06	10	none pictured - cost per Kent proposal - 7/22/21
5130	Termite Control	2,500.00	27.78	0.03	20	
5190	Testing	NIC	0.00	0.00	20	
	<b>CONCRETE TOTAL</b>	<b>2,275,300.00</b>	<b>25,281.11</b>	<b>29.01</b>		
6010	Framing Labor	788,570.00	8761.89	10.05	23	4/3 wood framed structure. (rate @ \$31.62)
6015	Framing Materials	1,683,621.00	18706.90	21.47	23	
6030	Drywall	459,000.00	5100.00	5.85	27	
6060	Floor Trusses	354,344.00	3937.16	4.52	23	
6061	Roof Trusses	229,503.00	2550.03	2.93	23	
6070	Clubhouse Finishes	A 126,875.00	1409.72	1.62	27	2,733 sf
6090	Cabinets	A 186,875.00	2076.39	2.38	28	Drawings call uppers to be 30". Client wants to use Aqua Box cabinet bases.
6094	Kitchen Tops	A 62,500.00	694.44	0.80	28	2CM eased edge Granite cost proposed
6095	Vanity Tops	A 17,500.00	194.44	0.22	28	2CM eased edge Granite cost proposed
6110	Interior Trim Material	46,800.00	520.00	0.60	23	Ameritech 7-27-21 - \$111,474.29
6130	Finish Carpentry Labor	89,100.00	990.00	1.14	23	
6250	Exterior Doors	90,000.00	1000.00	1.15	26	Entry and balcony door heights should be 6'8"
6251	Roof Access Doors	3,000.00	33.33	0.04	26	(2) roof hatches
6255	Common Area Door/Trim	31,500.00	350.00	0.40	26	Mechanical room doors should be 6'8"
6410	Interior Doors	80,250.00	891.67	1.02	26	China supply issue/ tariff increase 25%
	<b>FRAMING TOTAL</b>	<b>4,249,438.00</b>	<b>47,215.98</b>	<b>54.18</b>		
7010	Masonry - Material	A 215,340.00	2392.67	2.75	21	King Size Brick allowance(450/M) -\$14/SF. Limit brick return at balconies. Brick to stucco transitions.
7015	Masonry - Labor	A 223,660.00	2485.11	2.85	21	
7030	Natural Stone / CMU	NIC	0.00	0.00	21	Per owner request. Plans will be changed to eliminate CMU. Wood framing in elevator shafts.
7040	Ceramic Tile	65,000.00	722.22	0.83	27	Tub surround will end above shower head (approx. 7' AFF)
7050	Stucco & Plaster	A 550,000.00	6111.11	7.01	21	
	<b>MASONRY TOTAL</b>	<b>1,054,000.00</b>	<b>11,711.11</b>	<b>13.44</b>		
8010	Metal - Structural Steel	A 97,000.00	1077.78	1.24	22	Walk bridge frame and decking
8020	Metal - Stairs/Rails	32,750.00	363.89	0.42	22	stairwells, from garage all the way to TPO roof
8025	Metal Awnings	A 20,000.00	222.22	0.26	22	Canopy at club/leasing entry.
8030	Metal Rails - Balcony	80,000.00	888.89	1.02	22	Metal mesh balcony rails in plans. Capital Steel bid = \$95,096
8035	Metal Rails - Site	A 10,000.00	111.11	0.13	22	
	<b>METAL TOTAL</b>	<b>239,750.00</b>	<b>2,663.89</b>	<b>3.06</b>		

**CARLETON CONSTRUCTION**  
**Park Tower**  
**Fort Worth, TX**  
**1/20/2022**

**Contract SOV Budget**

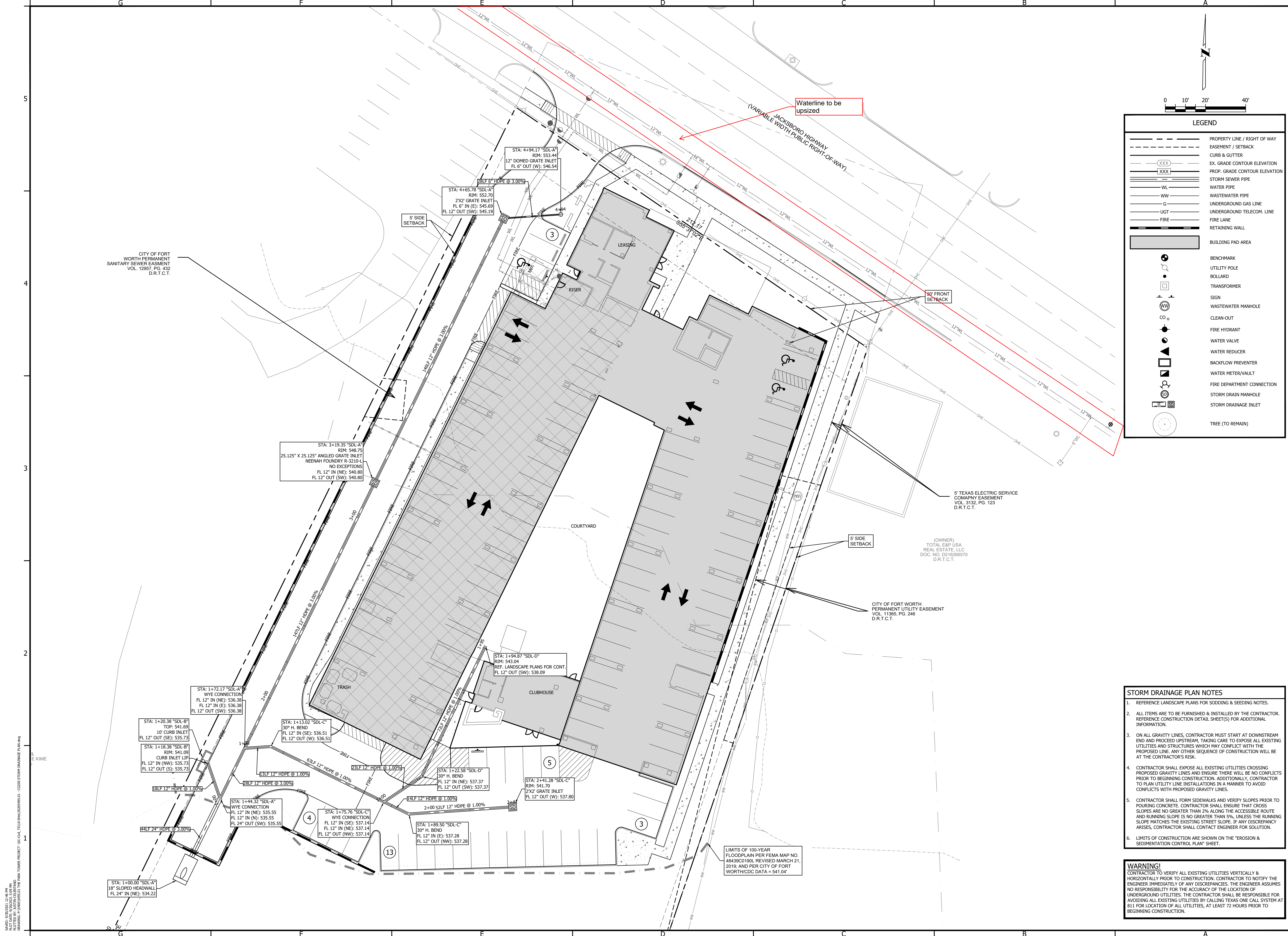
Code	Code Description	Prelim. Budget 1/20/2022	Budget / Unit 90	Budget / SF 78,426	TDHCA Divisions	Comments
9030	Roofing	297,000.00	3300.00	3.79	25	TPO roof
9031	Metal Roofing	A 25,000.00	277.78	0.32	25	Standing seams, Accent roofing
9060	Gutters & Downspouts	0.00	0.00	0.00	24	Design calls for interior roof drain system, not gutters/downspouts
9061	Flashing	40,000.00	444.44	0.51	24	Perimeter
<b>ROOFING TOTAL</b>		<b>362,000.00</b>	<b>4,022.22</b>	<b>4.62</b>		
10010	Windows & Screens	106,500.00	1183.33	1.36	26	
10030	Storefront Windows and Doors	A 82,500.00	916.67	1.05	26	Goal is to reduce storefront costs with a redesign.
10040	Mirrors	15,750.00	175.00	0.20	30	Frameless mirrors
<b>GLASS TOTAL</b>		<b>204,750.00</b>	<b>2,275.00</b>	<b>2.61</b>		
11050	Finish Hardware - Units	43,200.00	480.00	0.55	26	
11051	Finish Hardware - Common Areas	4,950.00	55.00	0.06	26	
11053	Toilet Partitions	15,000.00	166.67	0.19	28	Restrooms at the clubhouse
11060	Postal Specialties	11,250.00	125.00	0.14	28	
11080	Misc. Hardware - Leasing & Access Control	A 86,782.00	964.24	1.11	28	
11085	Fire Extinguishers	5,850.00	65.00	0.07	28	Code requirements
11090	Project Signage	A NIC	0.00	0.00	28	Standard spec calls for Owner Provided, Contractor Installed
11099	Elevators	180,000.00	2000.00	2.30	32	(2) Elevators: (1) with 5 stops (south) and (1) with 4 stops (north)
11180	Garage Doors / OH Doors	80,000.00	888.89	1.02	26	6- roll up garage doors. 2 at each opening of garage structure
<b>HARDWARE TOTAL</b>		<b>427,032.00</b>	<b>4,744.80</b>	<b>5.45</b>		
12010	Wall & Attic Insulation	180,000.00	2000.00	2.30	24	Throughout units - per DD Insulation proposal
<b>INSULATION TOTAL</b>		<b>180,000.00</b>	<b>2,000.00</b>	<b>2.30</b>		
13010	Painting - Units Only	172,748.00	1919.42	2.20	27	
13011	Painting - Corridors Only	30,000.00	333.33	0.38	27	
13015	Painting - Exterior	50,000.00	555.56	0.64	27	
13020	Tape, Bed & Texture	70,748.00	786.09	0.90	27	Texture to be medium splatter
13040	Parking Stripes	A 15,000.00	166.67	0.19	15	
<b>PAINTING TOTAL</b>		<b>338,496.00</b>	<b>3,761.07</b>	<b>4.32</b>	<b>123</b>	
14010	Vinyl Flooring	A 127,747.00	1419.41	1.63	27	Vinyl throughout unit. Owner wants tongue and groove style vinyl plank.
14078	Corridor/Common Flooring	A 50,000.00	555.56	0.64	27	Owner wants to use Conflex floor coating.
14079	Leasing & Amenity Flooring	A 32,032.00	355.91	0.41	27	per foot basis \$6
<b>FLOORING TOTAL</b>		<b>209,779.00</b>	<b>2,330.88</b>	<b>2.67</b>		
15010	Appliances	A 171,000.00	1900.00	2.18	30	Stainless appliances: Top freezer fridge.
<b>APPLIANCES TOTAL</b>		<b>171,000.00</b>	<b>1,900.00</b>	<b>2.18</b>		
16010	Plumbing	812,700.00	9030.00	10.36	33	Per Metroplex proposal - 11/2/21
16100	Water Meter/Tap Fees	NIC	0.00	0.00	33	
16170	Fire Sprinkler	180,250.00	2002.78	2.30	33	NFPA13R: no fire pump: per Central Fire proposal.
<b>PLUMBING TOTAL</b>		<b>992,950.00</b>	<b>11,032.78</b>	<b>12.66</b>		
17010	Electrical	954,000.00	10600.00	12.16	34	Single phase electric with inverters for elevators. Ari-TEX bid = \$1.2 mil.
17020	Fixtures	A 72,000.00	800.00	0.92	34	As instructed
17021	Club Fixtures	A NIC	0.00	0.00	34	Per Owner exclude from budget.
17025	Common Area Fixtures	A 18,000.00	200.00	0.23	34	
17030	Phone & Cable Wiring	A 34,000.00	377.78	0.43	34	
17050	Exterior Site Lighting	A 45,000.00	500.00	0.57	34	
17120	Fire Alarm	50,000.00	555.56	0.64	34	
<b>ELECTRICAL TOTAL</b>		<b>1,173,000.00</b>	<b>13,033.33</b>	<b>14.96</b>		
18010	HVAC Material & Labor	450,000.00	5000.00	5.74	33	Vertical units, 15 SEER Goodman. Sub quoted \$5500 per unit based on suggested plan changes.
18040	Venting	40,500.00	450.00	0.52	33	
18050	A/C Access Doors	4,500.00	50.00	0.06	33	
<b>HVAC TOTAL</b>		<b>495,000.00</b>	<b>5,500.00</b>	<b>6.31</b>		
20075	Site Amenities	A 77,500.00	861.11	0.99	18	Courtyard Benches, trash, grills,
<b>REC. FACILITIES TOTAL</b>		<b>77,500.00</b>	<b>861.11</b>	<b>0.99</b>		
22030	Mini-Blinds	18,000.00	200.00	0.23	28	2 Inch Faux
<b>WINDOW TOTAL</b>		<b>18,000.00</b>	<b>200.00</b>	<b>0.23</b>		
27120	Contingency (4.78%)	660,187.00	7335.41	8.42	36	

CARLETON CONSTRUCTION  
 Park Tower  
 Fort Worth, TX  
 1/20/2022

Contract SOV Budget

Code	Code Description	Prelim. Budget <small>1/20/2022</small>	Budget / Unit <small>90</small>	Budget / SF <small>78,426</small>	TDHCA <small>Divisions</small>	Comments
	CONTINGENCY TOTAL	660,187.00	7,335.41	8.42		
29001	General Contractors Fee (6%)	867,836.00	9642.62	11.07	<b>39</b>	
	GC / CM FEES	867,836.00	9,642.62	11.07		
	TOTAL CONST. COST	16,488,883.00	183,209.81	210.25		





**LEGEND**

	PROPERTY LINE / RIGHT OF WAY
	EASEMENT / SETBACK
	CURB & GUTTER
	EX. GRADE CONTOUR ELEVATION
	PROP. GRADE CONTOUR ELEVATION
	STORM SEWER PIPE
	WATER PIPE
	WASTEWATER PIPE
	UNDERGROUND GAS LINE
	UNDERGROUND TELECOM. LINE
	FIRE LANE
	RETAINING WALL
	BUILDING PAD AREA
	BENCHMARK
	UTILITY POLE
	BOLLARD
	TRANSFORMER
	SIGN
	WASTEWATER MANHOLE
	CLEAN-OUT
	FIRE HYDRANT
	WATER VALVE
	WATER REDUCER
	BACKFLOW PREVENTER
	WATER METER/VAULT
	FIRE DEPARTMENT CONNECTION
	STORM DRAIN MANHOLE
	STORM DRAINAGE INLET
	TREE (TO REMAIN)

- STORM DRAINAGE PLAN NOTES**
1. REFERENCE LANDSCAPE PLANS FOR SOODING & SEEDING NOTES.
  2. ALL ITEMS ARE TO BE FURNISHED & INSTALLED BY THE CONTRACTOR. REFERENCE CONSTRUCTION DETAIL SHEET(S) FOR ADDITIONAL INFORMATION.
  3. ON ALL GRAVITY LINES, CONTRACTOR MUST START AT DOWNSTREAM END AND PROCEED UPSTREAM, TAKING CARE TO EXPOSE ALL EXISTING UTILITIES AND STRUCTURES WHICH MAY CONFLICT WITH THE PROPOSED LINE. ANY OTHER SEQUENCE OF CONSTRUCTION WILL BE AT THE CONTRACTOR'S RISK.
  4. CONTRACTOR SHALL EXPOSE ALL EXISTING UTILITIES CROSSING PROPOSED GRAVITY LINES AND ENSURE THERE WILL BE NO CONFLICTS PRIOR TO BEGINNING CONSTRUCTION. ADDITIONALLY, CONTRACTOR TO RUN UTILITY LINE INSTALLATIONS IN A MANNER TO AVOID CONFLICTS WITH PROPOSED GRAVITY LINES.
  5. CONTRACTOR SHALL FORM SIDEWALKS AND VERIFY SLOPES PRIOR TO POURING CONCRETE. CONTRACTOR SHALL ENSURE THAT CROSS SLOPES ARE NO GREATER THAN 2% ALONG THE ACCESSIBLE ROUTE AND RUNNING SLOPE IS NO GREATER THAN 5%, UNLESS THE RUNNING SLOPE MATCHES THE EXISTING STREET SLOPE. IF ANY DISCREPANCY ARISES, CONTRACTOR SHALL CONTACT ENGINEER FOR SOLUTION.
  6. LIMITS OF CONSTRUCTION ARE SHOWN ON THE "EROSION & SEDIMENTATION CONTROL PLAN" SHEET.

**WARNING!**  
 CONTRACTOR TO VERIFY ALL EXISTING UTILITIES VERTICALLY & HORIZONTALLY PRIOR TO CONSTRUCTION. CONTRACTOR TO NOTIFY THE ENGINEER IMMEDIATELY OF ANY DISCREPANCIES. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THE LOCATION OF UNDERGROUND UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL EXISTING UTILITIES BY CALLING TEXAS ONE CALL SYSTEM AT 811 FOR LOCATION OF ALL UTILITIES, AT LEAST 72 HOURS PRIOR TO BEGINNING CONSTRUCTION.

CITY OF FORT WORTH PERMANENT SANITARY SEWER EASEMENT VOL. 12957, PG. 432 D.R.T.C.T.

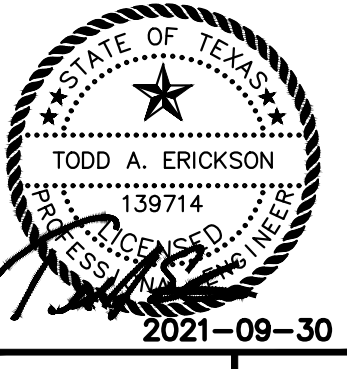
5 TEXAS ELECTRIC SERVICE COMPANY EASEMENT VOL. 3132, PG. 123 D.R.T.C.T.

(OWNER) TOTAL EXP USA REAL ESTATE, LLC DOC. NO. D216266570 D.R.T.C.T.

CITY OF FORT WORTH PERMANENT UTILITY EASEMENT VOL. 11365, PG. 246 D.R.T.C.T.

LIMITS OF 100-YEAR FLOODPLAIN PER FEMA MAP NO. 48490C0190L REVISED MARCH 21, 2019; AND PER CITY OF FORT WORTH/CDC DATA = 541.04'

NOT AUTHORIZED FOR CONSTRUCTION PRIOR TO FORMAL CITY APPROVAL



HTG PARK TOWER MULTI-FAMILY  
 1209 JACKSBORO HIGHWAY  
 FORT WORTH, TARRANT COUNTY, TEXAS 76114

STORM DRAINAGE PLAN  
 SHEET C7.0  
 10 OF 25



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Nuestra Sonora (#20190) in El Paso.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Reserve at Sulphur Springs (the Development) was approved by the Board in July 2020, for the construction of 80 multifamily units in El Paso, El Paso County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 15% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Nuestra Sonora is approved.

**BACKGROUND**

Nuestra Sonora is a 2020 competitive HTC award of \$1,232,777, which proposed the construction of 80 multifamily units serving the general population in El Paso, El Paso County. All 80 units are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Nuestra Sonora is 3% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Nuestra Sonora. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

The increased prices resulting from the pandemic were directly responsible for the cost increases that resulted in delays in arriving at a financially feasible version of the Project. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by City permitting and zoning staff are, likewise, being caused by the pandemic and are not within the Owner's control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the pandemic, including redesign and rezoning in order to get the project back on track. As previously indicated to the Department, even with a Force Majeure tax credit exchange, in order for the project to remain financially feasible the General Partner will be required to contribute significant gap funding dollars.

Based on the original award amount of \$1,232,777, the allowable limit for the supplemental request is \$86,294.39; however, updated financial documents submitted by the applicant indicate that an additional award of \$184,916.55, or 15% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.

# EP NUESTRA SENORA, LP

January 26, 2022

Bobby Wilkinson, Executive Director  
Texas Department of Housing and Community Affairs  
221 East 11<sup>th</sup> Street  
Austin, TX 78701

RE: **# 20190; Nuestra Senora, El Paso, Texas;  
Request for Waiver of Limit on Supplemental Credits.**

Dear Mr. Wilkinson:

EP Nuestra Senora, LP (“Owner”) is the proposed owner of the Nuestra Senora Apartments, an 80-unit, 100% low-income housing tax credit apartment complex under development in El Paso, Texas (“the “Project”) and sponsored by the Housing Authority of the City of El Paso (“HACEP”). Because the Covid-19 Pandemic occurred was on-going at the time the Original allocation was awarded, the Federal Placed-in-Service extension provided by Rev. Rul. 2014 was not available to the Project. For that reason, the Project applied for and received a Force Majeure tax credit exchange in October, 2021. Closing on the construction and equity financing is now anticipated in March 2022. An application for Supplemental Credits was submitted in December 2021, and we are now requesting a waiver of Section 11.1003(b) of the 2022 QAP which limits a request for Supplemental Credits to no more than 7% of the Original allocation.

In the Project’s application for Supplemental Credits, the Development Cost Schedule supported a request for an additional \$184,916 in Supplemental Credits. Because of Section 11.1003(b), however, the request was limited to \$86,294. In Supplemental Credits. We believe that the Development Cost Schedule makes a fair presentation of the increased costs that have been incurred because of the Covid-19 Pandemic and its effects upon construction and labor costs which and supply chain breakages which have resulted in delays that have materially adversely affected the Project’s viability. Subsequent to filing our application for Supplemental Credits, the Department’s Board agreed to waive the 7% cap for another applicant who showed that Supplemental Credits exceeding 7% of the Original allocation were essential to the financial feasibility of that development (subject to confirmation by Real Estate Analysis). This change in circumstances has led us to request a waiver for similar reasons.

The Project has not yet closed on its construction and equity financing because of the unforeseen circumstance of escalating prices for construction materials that were outside of the Owner’s control, without any willful negligence or acts of the Owner or any other Related Party. The increased prices resulting from the Pandemic were directly responsible for the cost increases that resulted in delays in arriving at a financially feasible version of the Project. The other factors related to supply chain disruptions, labor shortages, and timeliness/processing challenges faced by



City permitting and zoning staff are, likewise, being caused by the Pandemic and are not within the Owner's control. The Owner has made every effort to mitigate the financial and scheduling problems caused by the Pandemic, including redesign and rezoning in order to get the Project back on track. As previously indicated to the Department, even with a Force Majeure tax credit exchange, in order for the Project to remain financially feasible the GP will be required to contribute significant gap funding dollars. While the GP continues to provide this commitment, we pursue other forms of gap financing, including but not limited to Supplemental Credits. The requested waiver of Section 11.1003(b) will assist in closing the financing gap.

In order to qualify for a waiver of Department rules, Section 11.207(1) of the QAP requires that the Applicant show that the circumstances leading to the request are not within the control of the Applicant, or that the request is due to an overwhelming need. The Pandemic was not within the control of the Applicant or any Related Party, and the cost increases resulting from the Pandemic were not foreseeable by the Applicant at the time of filing the original tax credit application. Additionally, Section 11.207(2) of the QAP requires that a waiver request establish how granting the waiver request better serves the policies and purposes articulated in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701, than not granting the waiver. In the case of the Project, the Department's purposes that can better be advanced by granting this waiver request are:

(1) Texas Government Code §2306.001(2) and (3), require that the Department provide for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income, and to contribute to the preservation, development, and redevelopment of neighborhoods and communities, including cooperation in the preservation of government-assisted housing occupied by individuals and families of very low and extremely low income. Nuestra Senora is sponsored and assisted by HACEP and will be 100% restricted to low-income, very low-income and extremely low-income families, so the Department's granting of this waiver request will further these purposes.

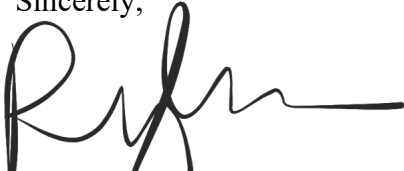
(2) Additionally, Section 2306.001(3) of the Texas Government Code charges the Department with providing for and encouraging the participation of nonprofit organizations in the acquisition, development, and operation of affordable housing developments. One of the Developers of the Project is Paisano Housing Redevelopment Corporation, a Texas nonprofit corporation which was formed by HACEP for the express purpose of assisting in the development of affordable housing. Granting this waiver request will assist the Department in fulfilling this purpose.

January 26, 2022

Page 3

Thank you for your consideration of our request. If any additional information is needed, please contact either Sarah Anderson at (512) 554-4721 and [sarah@sarahandersonconsulting.com](mailto:sarah@sarahandersonconsulting.com) , or Ryan Wilson at 210-694-2223 and [rwilson@franklindev.net](mailto:rwilson@franklindev.net) .

Sincerely,



Ryan Wilson

cc: Cody Campbell  
Colin Nickells  
Tom Deloye  
Sarah Anderson  
Barry J. Palmer  
Tamea .A. Dula

## Original Application and Contact Information

### Original Application Information

<u>20190</u>	<u>2020</u>	<u>Nuestra Senora</u>	<input type="checkbox"/>	<input type="checkbox"/>	
Original Application Number	Year of Award	Development Name	At-Risk	USDA	Mark "X" to select the Set-aside associated with the original Application (if applicable).

### Development Site Information

<u>415 Montana Avenue</u>				<u>El Paso</u>	
Address				City	
<u>13</u>	<u>79902</u>	<u>El Paso</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mark "X" to select the rural/urban designation associated with the original Application.
Region	Zip	County	Urban	Rural	

### Supplemental Credit Request Information

<u>\$ 184,916.55</u>	<u>\$ 1,232,777.00</u>	<u>\$ 86,294.39</u>	
Supplemental Credit Request Amount	Original Application Award Amount	Maximum Possible Supplemental Request	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.

### Requester Contact Information

<u>Tom Deloye</u>	<u>915-849-3813</u>
Name	Office Phone
<u>tdeloye@ephome.org</u>	<u>915-478-5619</u>
Email Address	Mobile Phone

Mailing Address:  
304 Texas Avenue  
 Street  

<u>El Paso</u>	<u>TX</u>	<u>79901</u>
City	State	ZIP

### Consultant Contact Information (if applicable)

<u>Alyssa Carpenter</u>	<u>5127891295</u>
Name	Office Phone
<u>ajcarpen@gmail.com</u>	<u>5127891295</u>
Email Address	Mobile Phone

Mailing Address:  
1305 E. 6th, Ste 12  
 Street  

<u>Austin</u>	<u>TX</u>	<u>78702</u>
City	State	ZIP



### Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

**Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)**

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds			
		Bond Amount		Bond Amount			
	Tax Exempt Bonds						
	Taxable Bonds						

**Debt**

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0		
Chase	Conventional Loan	\$13,745,952	2.00%	1st	\$ 2,714,292	5.21%	35	18		1st
HACEP	Soft Loan	\$5,973,425	na	2nd	\$ 5,862,486	na	na	na		2nd
	0									

**Third Party Equity**

Hunt	<a href="#">HTC</a> \$ 1,417,694	\$ 2,551,593			\$ 12,757,966					

**Grant**

City of El Paso	<a href="#">§11.9(d)(2)LPS Contribution</a>				\$ 500					

**Deferred Developer Fee**

Developer					\$ 688,223					

**Other**

	<a href="#">Direct Loan Match</a>									

<b>Total Sources of Funds</b>		\$ 22,270,970			\$ 22,023,467					
<b>Total Uses of Funds</b>					\$ 22,023,467					

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

[Empty yellow box for describing sources and uses of funds]

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

[Empty yellow box for describing replacement reserves]

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

[Empty yellow box for describing operating items]

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

\_\_\_\_\_  
Signature, Authorized Representative, Construction or Permanent Lender

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Telephone: \_\_\_\_\_  
Email address: \_\_\_\_\_

If a revised form is submitted, date of submission: \_\_\_\_\_

## Kit Sarai

---

**From:** Ryan Wilson <rwilson@franklindev.net>  
**Sent:** Tuesday, January 25, 2022 2:27 PM  
**To:** Kit Sarai; Sarah Anderson  
**Subject:** FW: Nuestra Senora - supplemental credits

Thanks,  
Ryan Wilson  
Franklin Companies  
(210) 325-7360

---

**From:** William Teschke <william.teschke@huntcompanies.com>  
**Sent:** Tuesday, January 25, 2022 2:25 PM  
**To:** Ryan Wilson <rwilson@franklindev.net>; Brett Franklin <bfranklin@franklindev.net>; Lucila Diaz <ldiaz@franklindev.net>; Satish Bhaskar <sbhaskar@hacep.org>; Salcido, Silvia <ssalcido@ephome.org>; Renteria, Claudia <crenteria@ephome.org>; khagelsieb@ephome.org  
**Cc:** Ara Garibyan <ara.garibyan@huntcompanies.com>  
**Subject:** Nuestra Senora - supplemental credits

All,

I understand that the Nuestra Senora development team plans on requesting a supplemental credit allocation from TDHCA in an amount of up to 15% of the initial \$12,327,770 reservation. I am writing to confirm that HCP and its investor are interested in purchasing the additional credits, if awarded by TDHCA.

Should you have any questions, do not hesitate to call or email me.

Thanks,

William Teschke | Senior Director, Project Management  
Phone: 818.380.6112 | Cell: 708.691.1246  
15910 Ventura Blvd, Suite 1100 | Encino, CA | 91436  
Hunt Capital Partners | [william.teschke@huntcompanies.com](mailto:william.teschke@huntcompanies.com)  
[www.huntcapitalpartners.com](http://www.huntcapitalpartners.com)

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Arbor Park (#20192) in Austin.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Arbor Park (the Development) was approved by the Board in July 2020, for the construction of 147 multifamily units in Austin, Travis County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 15% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Arbor Park is approved.

**BACKGROUND**

Arbor Park is a 2020 competitive HTC award of \$1,500,000, which proposed the construction of 124 multifamily units serving the elderly population in Austin, Travis County. Of the 147 units, 27 are market-rate and 120 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the

2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Arbor Park. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

Due to COVID-19 and the associate labor shortages, construction materials cost spikes, and supply chain issues, the total development budget at closing was approximately \$6,500,000 higher than it was projected at original Application. We were proactive in making efforts to return the transaction to a feasible position by closing our \$2,000,000 loan with the City of Austin, and by applying for and receiving a \$2,222,900 direct loan from TDHCA, which has not yet closed. Due to the delay in that closing, our investor, National Equity Fund, has held back \$850,000 in reimbursables and all paid developer fee and will release such when we close the NHTF loan. TDHCA will not close that transaction until the award of supplement credits is approved by the board, which is pending.

Based on the original award amount of \$1,500,000, the allowable limit for the supplemental request is \$105,000; however, updated financial documents submitted by the applicant indicate that an additional award of \$225,000, or 15% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.



January 26, 2022

Colin Nickells  
Competitive Housing Tax Credit Manager  
Texas Department of Housing  
and Community Affairs  
P.O. Box 13941  
Austin, Texas 78701-3941

Re: Arbor Park, TDHCA 20192

Dear Mr. Nickells:

Arbor Park is a 2020 9% tax credit development that closed on its construction loan and started construction in November of 2021. Construction is currently approximately 2% complete.

Due to Covid-19 and the associate labor shortages, construction materials cost spikes, and supply chain issues, our total development budget at closing was approximately \$6.5M higher than it was projected at original application. We were proactive in making efforts to return the transaction to a feasible position by closing our \$2M loan with the City of Austin, and by applying for and receiving a \$2,222,900 direct loan from TDHCA, which has not yet closed. Due to the delay in that closing, our investor, National Equity Fund, has held back \$850,000 in reimbursables and all paid developer fee and will release such when we close the NHTF loan. It is my understand that TDHCA will not close that transaction until the award of supplement credits is approved by the board, which is pending.

Due to board action on January 13, 2022, granting a waiver of the 7% cap on supplemental credits, DMA Development Company is hereby requesting a similar waiver of Section 11.02, due to the recent spikes in lumber pricing. Our contractor has just finished demolition on the site and is beginning site work, and now needs to select a framing contractor. Carleton has received two bids this week, which are attached and show a budget bust of more than \$1.5M. The other budget bust is in plumbing, electrical and HVAC which are \$43,000, \$58,000, and \$145k over budget respectively, reflecting another \$250,000 collectively.

Our contractor has advised us that they cannot accept these framing bids at this time based on force majeure without issuing a large change order for cost, given that they already are in the red \$1,750,000 at only 2% construction completion. It is not in DMA's interest to risk a work stoppage, and so we are submitting this waiver request so that we have sufficient development funds to approve the proposed change order. The latest our contractor can sign the framing contract and maintain the current construction schedule is March, which does not give the lumber market much time to adjust downward. While we are still carrying a \$1,104,000 contingency, this amount is insufficient to cover the proposed charge order for lumber. Moreover, our investor will not allow us to spend 100% of our contingency at this early stage of construction on one change order, so we are forced to identify additional sources outside of our contingency to cover this.

We hereby are requesting to go up to 15% of our original credit request, which was the cap amount that staff initially requested, but which was lowered to 7% in response to developer input, and specifically TAAHP input. The 7% cap was suggested because we believed that most developers would request additional credits, but that did not happen. Currently, the program is undersubscribed at \$2.8 million dollars requested, as compared to the \$5 million that TDHCA has made available for transactions experiencing feasibility issues due to the rapidly escalating construction cost market. Because the program is unsubscribed, we believe that this waiver request is justifiable given the cost increases documented.

10 TAC§ 11.207 sets forth the requirements for a rule waiver. In particular, the requesting party must show the following:

1. The need for the waiver was neither foreseeable nor preventable by Owner.



The increased construction costs and disruptions in construction were all caused for a variety of reasons beyond the control of Owner including, but not limited to, overall construction price increases and broken supply chains for materials caused by the pandemic.

2. Granting the waiver better serves the policies and purposes of serving low-income tenants as set forth in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701.

If approved, the Development will be completed, which will provide for 147 senior housing units containing one- and two-bedroom units for the residents of Austin. Therefore, by allowing this waiver TDHCA most assuredly satisfies the requirement set forth in §11.207(2) of the 2022 QAP.

We appreciate your consideration of this request and are happy to provide any additional information that you may require.

Sincerely,

DMA Development Company, LLC

A handwritten signature in blue ink, appearing to read "Janine Sisak", with a stylized flourish at the end.

Janine Sisak  
Senior Vice President/General Counsel

# APPLICATION AND CONTACT INFORMATION PAGE

**Original Application and Contact Information**

**Original Application Information**

20192      2020      Arbor Park       **At-Risk**       **USDA**      Mark "X" to select the Set-aside associated with the original Application (if applicable).

Original Application Number      Year of Award      Development Name

**Development Site Information**

6306 McNeil Drive      Austin  
Address      City  
7      78729      Travis       **Urban**       **Rural**      Mark "X" to select the rural/urban designation associated with the original Application.  
Region      Zip      County

**Supplemental Credit Request Information**

\$ 225,000.00      \$ 1,500,000.00      \$ 105,000.00      Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.  
Supplemental Credit Request Amount      Original Application Award Amount      Maximum Possible Supplemental Request

**Requester Contact Information**

Janine Sisak      512-328-3232 x4505  
Name      Office Phone  
janines@dmacompanies.com      \_\_\_\_\_  
Email Address      Mobile Phone

Mailing Address:  
4101 Parkstone Heights Drive, Suite 310  
Street  
Austin      Texas      78746  
City      State      ZIP

**Consultant Contact Information (if applicable)**

\_\_\_\_\_  
Name      Office Phone  
\_\_\_\_\_  
Email Address      Mobile Phone

Mailing Address:  
\_\_\_\_\_  
Street  
\_\_\_\_\_

# UPDATED SOURCES & USES

## Schedule of Sources of Funds and Financing Narrative

*Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).*

### Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)

Bond Issuer	Funding Description	Construction Period Bonds		Permanent Period Bonds				
		Bond Amount		Bond Amount				
TDHCA	Mortgage Revenue Bond							
	Tax Exempt Bonds							
	Taxable Bonds							

### Debt

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$2,222,900	0.00%		\$ 2,222,900	0.00%	35	35		2
JPMorgan Chase Bank, N.A.	Conventional Loan	\$22,112,000	2.75%	1	\$ 13,000,000	5.00%	40	18		1
City of Austin	Local Government Loan	\$2,000,000	0.00%	2	\$ 2,000,000	0.00%	NA	40		3

### Third Party Equity

National Equity Fund	<a href="#">HTC</a> \$ 1,725,000	\$ 10,918,908			\$ 16,211,757				0.94	

### Grant

Fee Waivers	<a href="#">§11.9(d)(2)LPS Contribution</a>	\$ 700,000			\$ 700,000					

### Deferred Developer Fee

DMA Development Company/JSA D					\$ 1,332,758					

### Other

Nelsen Partners	<a href="#">Direct Loan Match</a>				\$ 193,115					
<b>Total Sources of Funds</b>		\$ 37,953,808			\$ 35,660,530					



**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

The sources and uses are all as indicated above.

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

Replacement reserves are \$250 per unit per annum, which is industry standard.

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

NA

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

  
Signature, Authorized Representative, Construction or Permanent Lender

Jason Alandyx  
Printed Name

1/26/22  
Date

Telephone: 972.741.5150

Email address: jaldandyx@refinc.org

If a revised form is submitted, date of submission:

# UPDATED DEVELOPMENT COST SCHEDULE

## Development Cost Schedule

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Supplemental Credit Requests must complete the Total Cost column. Direct Loan Applicants should review costs ineligible for reimbursement with Direct Loan funds in 10 TAC §13.3(e), while all HTC Applicants must complete the Eligible Basis columns and the Requested Credit calculation below:

TOTAL DEVELOPMENT SUMMARY		
Total	Eligible Basis (If Applicable)	
Cost	Acquisition	New/Rehab.

Scratch Paper/Notes

**ACQUISITION**

Site acquisition cost	4,100,000		
Existing building acquisition cost			
Closing costs & acq. legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Acquisition Cost</b>	\$4,100,000	\$0	\$0

**OFF-SITES<sup>2</sup>**

Off-site concrete			
Storm drains & devices			
Water & fire hydrants			
Off-site utilities			
Sewer lateral(s)			
Off-site paving			
Off-site electrical			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Off-Sites Cost</b>	\$0	\$0	\$0

ALL OFF-SITE COSTS REQUIRE DOCUMENTATION. THOSE ENTERED IN BASIS REQUIRE MORE DOCUMENTATION!!! SEE 10 TAC §11.204(8)(E)(ii).

**SITE WORK<sup>3</sup>**

Demolition	235,822		
Asbestos Abatement (Demolition Only)			
Detention	1,131,970		1,131,970
Rough grading	583,343		583,343
Fine grading			
On-site concrete	128,860		128,860
On-site electrical	70,000		70,000
On-site paving	342,599		342,599
On-site utilities	922,854		922,854
Decorative masonry	75,910		75,910
Bumper stops, striping & signs			
Other (specify) - see footnote 1			
<b>Subtotal Site Work Cost</b>	\$3,491,358	\$0	\$3,255,536

**SITE AMENITIES**

Landscaping	200,705		200,705
Pool and decking			
Athletic court(s), playground(s)			
Fencing	51,355		51,355
Other (specify) - see footnote 1			
<b>Subtotal Site Amenities Cost</b>	\$252,060	\$0	\$252,060

**BUILDING COSTS\*:**

Concrete	971,349		971,349
Masonry	977,373		977,373
Metals	477,921		477,921
Woods and Plastics	5,020,000		3,534,550
Thermal and Moisture Protection	213,000		213,000
Roof Covering	488,185		488,185
Doors and Windows	448,018		448,018
Finishes	1,763,010		1,763,010
Specialties	230,090		230,090
Equipment	224,910		224,910
Furnishings	608,123		608,123
Special Construction	30,397		30,397
Conveying Systems (Elevators)	205,000		205,000
Mechanical (HVAC; Plumbing)	2,069,904		2,069,904
Electrical	1,780,400		1,780,400

Increase of \$1,485,450

Describe for MFDL

Individually itemize costs below:

Detached Community Facilities/Building	75,000		75,000	
Carports and/or Garages				
Lead-Based Paint Abatement				
Asbestos Abatement (Rehabilitation Only)				
Structured Parking				
Commercial Space Costs				
<b>Other (specify) - see footnote 1</b>				
<i>e.g. Community spaces not exclusively used by tenants/tenant guests</i>				
<b>Subtotal Building Costs</b>	\$15,582,680	\$0	\$14,097,230	

Before 11.9(e)(2)

Voluntary Eligible Building Costs (After 11.9(e)(2))\*

\$0.00 psf

Enter amount to be used to achieve desired score.

If NOT seeking to score points under §11.9(e)(2), E77:E78 should remain BLANK. True eligible building cost should be entered in line items E33:E74. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E77:E78 that produces the target cost per square foot in D77:D78. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

<b>TOTAL BUILDING COSTS &amp; SITE WORK</b>	\$19,326,098	\$0	\$17,604,826	
<b>(including site amenities)</b>				
Contingency	5.25%	\$1,014,698	\$1,014,698	

TOTAL HARD COSTS

\$20,340,796	\$0	\$18,619,524
--------------	-----	--------------

OTHER CONSTRUCTION COSTS

%THC

%EHC

General requirements (<6%)	5.18%	1,054,008	1,054,008	5.66%
Field supervision (within GR limit)				
Contractor overhead (<2%)	1.73%	351,336	351,336	1.89%
G & A Field (within overhead limit)				
Contractor profit (<6%)	5.18%	1,054,008	1,054,008	5.66%

TOTAL CONTRACTOR FEES

\$2,459,352	\$0	\$2,459,352
-------------	-----	-------------

TOTAL CONSTRUCTION CONTRACT

\$22,800,148	\$0	\$21,078,876
--------------	-----	--------------

Before 11.9(e)(2)

Voluntary Eligible "Hard Costs" (After 11.9(e)(2))\*

\$0.00 psf

Enter amount to be used to achieve desired score.

If NOT seeking to score points under §11.9(e)(2), E96:E97 should remain BLANK. True eligible cost should be entered in line items E83 and E87:E91. If requesting points under §11.9(e)(2) related to Cost of Development per Square Foot, enter the true or voluntarily limited costs in E96:E97 that produces the target cost per square foot in D96:D97. Enter Requested Score for §11.9(e)(2) at the bottom of the schedule in D202.

SOFT COSTS<sup>3</sup>

Architectural - Design fees	1,561,595		1,561,595	
Architectural - Supervision fees				
Engineering fees				
Real estate attorney/other legal fees	175,000		175,000	
Accounting fees	50,000		50,000	
Impact Fees				
Building permits & related costs	853,305		853,305	
Appraisal	6,500		6,500	
Market analysis	8,000		8,000	
Environmental assessment	30,463		30,463	
Soils report	5,950		5,950	
Survey	70,000		70,000	
Marketing	25,000			
Hazard & liability insurance	150,000		150,000	
Real property taxes	66,675		66,675	
Personal property taxes				
Tenant Relocation				
<b>FFE</b>	150,000		150,000	
<i>e.g. Delinquent fees, taxes or changes</i>				
Soft Cost Contingency	58,450		58,450	
<b>Other (specify) - see footnote 1</b>				
<b>Subtotal Soft Cost</b>	\$3,210,938	\$0	\$3,185,938	

FINANCING:

CONSTRUCTION LOAN(S)<sup>3</sup>

Interest	877,223		877,223	
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<b>Total Eligible Basis</b>		\$0	\$28,575,102
**High Cost Area Adjustment (100% or 130%)			130%
<b>Total Adjusted Basis</b>		\$0	\$37,147,633
Applicable Fraction			82%
<b>Total Qualified Basis</b>	\$30,461,059	\$0	\$30,461,059
Applicable Percentage <sup>6</sup>			9.00%
<b>Credits Supported by Eligible Basis</b>	\$2,741,495	\$0	\$2,741,495
<b>Credit Request</b>	\$ 1,725,000		


\*11.9(c)(2) Cost Per Square Foot: DO NOT ROUND! Applicants are advised to ensure that the figure is not rounding down to the maximum dollar figure to support the elected points.

<b>For TDHCA Issued Bonds Only</b>	
Scoring Item per 12.6 (13)	
<b>50% Test for Bond Financing for 4% Tax Credits</b>	
<b>TDHCA Tax-Exempt Bond Amount</b>	\$ -
Land Cost	\$ 4,100,000
Depreciable Bldg Cost **	\$ 30,296,374
<b>Aggregate Basis for 50% Test</b>	<b>\$ 34,396,374</b>
Percent Financed by Tax-Exempt Bonds	<b>0.00%</b>

\*\*Depreciable building cost includes: Total construction contract, total building acquisition, total developer fee, plus eligible financing and soft costs.

Name of contact for Cost Estimate: Steve Sivells

Phone Number for Contact: 972-980-9810

If a revised form is submitted, date of submission: \_\_\_\_\_

Footnotes:

- <sup>1</sup> An itemized description of all "other" costs must be included at the end of this exhibit.
- <sup>2</sup> All Off-Site costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Offsite Cost Breakdown form.
- <sup>3</sup> (HTC Only) Site Work expenses, indirect construction costs, developer fees, construction loan financing and other financing costs may or may not be included in Eligible Basis. Site Work costs must be justified by a Third Party engineer in accordance with the Department's format provided in the Site Work Cost Breakdown form.
- <sup>4</sup> (HTC Only) Only fees paid to a consultant for duties which are not ordinarily the responsibility of the developer, can be included in Eligible Basis. Otherwise, consulting fees are included in the calculation of maximum developer fees.
- <sup>5</sup> (HTC Only) Provide all costs & Eligible Basis associated with the Development.
- <sup>6</sup> (HTC Only) Use the appropriate Applicable Percentages as defined in §11.1 of the QAP.

UPDATED  
CONTRACTOR  
CONSTRUCTION COST  
INFORMATION







Framing															
PROJECT: Arbor Park				Advanced Framing Chance Davis 903-456-4100 <a href="mailto:Cdavis@advancedframing.net">Cdavis@advancedframing.net</a>			Jones & Sons Framing Eric Guitierrez 817-253-0354 <a href="mailto:ericg@jscitx.com">ericg@jscitx.com</a>			Proposal date 1/21/2022			Proposal date		
UNITS: 147															
NET RENTABLE SQ FT: 115,582															
TAX EXEMPT PROJECT: YES															
BASE QUOTATION:				Proposal:			Proposal:			Proposal:			Proposal:		
Code:	Description:	Budget	Per Sq Ft	Bid	Per Sq Ft	Budget Delta	Bid	Per Sq Ft	Budget Delta	Bid	Per Sq Ft	Budget Delta	Bid	Per Sq Ft	Budget Delta
6010	Framing Labor	\$ 970,000.00	\$ 8.39	\$ 970,000.00	\$ 8.39	\$ -	\$ 1,191,300.00	\$ 10.31	\$ 221,300.00						
6015	Framing Materials	\$ 1,924,550.00	\$ 16.65	\$ 2,825,000.00	\$ 24.44	\$ 900,450.00	\$ 2,669,007.50	\$ 23.09	\$ 744,457.50						
6060	Floor Trusses	\$ 345,600.00	\$ 2.99	\$ 661,500.00	\$ 5.72	\$ 315,900.00	\$ 669,366.65	\$ 5.79	\$ 323,766.65						
6061	Roof Trusses	\$ 294,400.00	\$ 2.55	\$ 563,500.00	\$ 4.88	\$ 269,100.00	\$ 570,201.23	\$ 4.93	\$ 275,801.23						
ALTERNATES:				Alternates Priced:		Alt. Selected ?	Alternates Priced:		Alt. Selected ?	Alternates Priced:		Alt. Selected ?	Alternates Priced:		Alt. Selected ?
TOTAL BUDGET AMOUNT: \$ 3,534,550.00				\$ 5,020,000.00			\$ 5,099,875.38			\$ -			\$ -		
Compared to Budget OVER/(UNDER)				\$ 1,485,450.00			\$ 1,565,325.38								
SUBCONTRACTOR RANK															
BID ANALYSIS	SCOPE OF WORK			Included in proposal?			Included in proposal?			Included in proposal?			Included in proposal?		
	7/16" Exterior Sheathing			YES			YES								
	23/32" OSB glued decking			YES			YES								
	23/32" OSB roof decking			YES			YES								
	2 hour shaftliner			YES			YES								
	Strutural Hardware per plans			YES			YES								
	Wall studs : #2 DFL			YES			YES								
COMMENTS:															
Prepared By: _____															
APPROVALS: _____															

# INVESTOR SUPPORT FOR ADDITIONAL CREDITS

January 25, 2022

Ms. Janine Sisak  
DMA Development Company, LLC  
4101 Parkstone Heights Drive  
Austin, TX 78746

**Re: Arbor Park**

Dear Ms. Sisak:

National Equity Fund, Inc. (NEF) acts as the Limited Partner in the above referenced project and acknowledges the intent to apply for supplemental 9% tax credits as outlined in the 2022 QAP. This letter serves as a preliminary equity investment commitment to purchase all additional annual credits for a price equal to that of the original award amount (\$0.94 per credit) resulting in a total investment of \$16,211,757 (\$1,725,000 annual credits @ \$0.94). We have reviewed the project market study and approved the proposed market rents in the rent schedule. Please note these funds are subject to approval of NEF's Investor Review Committee and the final tax credit investors.

Sincerely,



Jason Aldridge, VP  
National Equity Fund

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Ella Grand (#20205) in Houston.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Ella Grand (the Development) was approved by the Board in July 2020, for the construction of 145 multifamily units in Houston, Harris County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 15% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Ella Grand is approved.

**BACKGROUND**

Ella Grand is a 2020 competitive HTC award of \$1,500,000 which proposed the construction of 124 multifamily units serving the elderly population in Houston, Harris County. Of the 145 units, 30 are market-rate and 115 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the

2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Ella Grand. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

Due to COVID-19 and the associated labor shortages, construction materials cost spikes, and supply chain issues, the total development budget now is approximately \$10 million higher than it was projected at original Application. The development team has been proactive in making efforts to return the transaction to a feasible position by applying for and receiving a \$2,180,000 direct loan from TDHCA, which has not yet closed. The construction lender will not close the transaction without the simultaneous closing of the National Housing Trust Fund loan and the disaster relief loan from the City of Houston. Meanwhile, construction prices continue to climb.

Based on the original award amount of \$1,500,000, the allowable limit for the supplemental request is \$105,000; however, updated financial documents submitted by the applicant indicate that an additional award of \$225,000, or 15% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.



January 26, 2022

Colin Nickells  
Competitive Housing Tax Credit Manager  
Texas Department of Housing  
and Community Affairs  
P.O. Box 13941  
Austin, Texas 78701-3941

Re: Ella Grand, TDHCA 20205

Dear Mr. Nickells:

Ella Grand is a 2020 9% tax credit development that has not yet closed any of its financing. We have not yet closed because we are waiting for two of our financing partners to be ready to close. Specifically, the City of Houston cannot close on its award of \$11M in disaster relief funds until it receives approval from the General Land Office. This approval has been delayed due to a larger issue regarding the General Land Office's comprehensive and ongoing review of the City of Houston's procurement procedures. We also have not been able to close on our NHTF loan because TDHCA has determined that, due to a federal regulation regarding NHTF funds, it cannot issue the NHTF contract without the final financial projections which need to include all sources, including the supplemental tax credits that we have requested but have not yet been awarded. Therefore, based on these two funding partners that are unable to close this transaction for these stated reasons, this project has been stuck in a holding pattern.

In times of uncertainty, like the one we are in now, time delays are the biggest challenges for real estate transactions. In this case, we submitted our development cost schedule and accompanying sources and uses to TDHCA four times over the past six months and in every case, construction pricing went up because subcontractors are unwilling to hold their bids for longer than 30 days in this environment. We submitted our numbers in July, when we requested NHTF funds; we submitted our numbers again in November because our contractor could not hold its July number; we submitted our numbers again in December in connection with our request for supplemental credits; and we are now submitting our numbers for the fourth time. Our November and December submittals was based on hard bids from subcontractors obtained in late October. Our contractor told us he could hold these numbers until mid-January. It is now past mid-January, and I am still not able to close due to reasons stated above. The contractor therefore has received updated numbers from its subcontractors and the new pricing is included in this revised application for supplemental credits. Please note that this pricing does not reflect current lumber pricing because we do not anticipate having to buy out lumber until April 2022. This pricing is based on \$1,000 per board foot instead of the current pricing of \$1,500 per board foot, so we are hedging our bets based on the assumption that lumber pricing will decrease significantly by April.

Due to Covid-19 and the associated labor shortages, construction materials cost spikes, and supply chain issues, our total development budget now is approximately \$10 million higher than it was projected at original application. We have been proactive in making efforts to return the transaction to a feasible position by applying for and receiving a \$2,180,000 direct loan from TDHCA, which has not yet closed. Our construction lender will not close the transaction without the simultaneous closing of the NHTF loan and the disaster relief loan from the City of Houston. So again, we have been waiting and waiting, and watching construction pricing continue to climb.

Due to board action on January 13, 2022, granting a waiver of the 7% cap on supplemental credits, DMA Development Company is hereby requesting a similar waiver of Section 11.02, due to the recent spikes in lumber pricing, windows and millwork. Our revised development cost breakdown with the contractor's budget included in the revised application for supplemental credits. Please note that even if TDHCA grants the waiver and awards this development a total of \$210,000 in additional tax credits, DMA Development Company is still deferring more than 60% of its developer fee, well more than was anticipated at application.

We hereby are requesting to go up to 15% of our original credit request to cover this increase, which was the cap amount that staff initially requested, but which was lowered to 7% in response to developer input, and specifically TAAHP input. The 7% cap was suggested because we believed that most developers would request additional credits, but that did

4101 Parkstone Heights Drive, Suite 310 | Austin, TX, 78746

P: 512.328.3232 | F: 512.328.4584

[www.dmacompanies.com](http://www.dmacompanies.com)



not happen. Currently, the program is undersubscribed at \$2.8 million dollars requested, as compared to the \$5 million that TDHCA has made available for transactions experiencing feasibility issues due to the rapidly escalating construction cost market. Because the program is undersubscribed, we believe that this waiver request is justifiable given the cost increases documented.

10 TAC§ 11.207 sets forth the requirements for a rule waiver. In particular, the requesting party must show the following:

1. The need for the waiver was neither foreseeable nor preventable by Owner.

The increased construction costs and disruptions in construction were all caused for a variety of reasons beyond the control of Owner including, but not limited to, overall construction price increases and broken supply chains for materials caused by the pandemic. Furthermore, the General Land Office's oversight of the City of Houston's allocation of these funds was also unforeseeable nor preventable by the Owner. As discussed above, this unforeseen delay prevented us from closing in the fall when lumber pricing was down.

2. Granting the waiver better serves the policies and purposes of serving low-income tenants as set forth in Tex. Gov't Code, §§2306.001, 2306.002, 2306.359, and 2306.6701.

If approved, the Development will be completed which will provide for 147 senior housing units containing one- and two-bedroom units for the residents of Austin. Therefore, by allowing this waiver TDHCA most assuredly satisfies the requirement set forth in §11.207(2) of the 2022 QAP.

We appreciate your consideration of this request and are happy to provide any additional information that you may require.

Sincerely,

DMA Development Company, LLC

A handwritten signature in blue ink, appearing to read "Janine Sisak", with a stylized flourish at the end.

Janine Sisak  
Senior Vice President/General Counsel



# APPLICATION AND CONTACT INFORMATION PAGE

## Original Application and Contact Information

### Original Application Information

<u>20205</u>	<u>2020</u>	<u>Ella Grand</u>	<input type="checkbox"/>	<input type="checkbox"/>	Mark "X" to select the Set-aside associated with the original Application (if applicable).
Original Application Number	Year of Award	Development Name	At-Risk	USDA	

### Development Site Information

<u>2077 S. Gessner Rd.</u>			<u>Houston</u>	Mark "X" to select the rural/urban designation associated with the original Application.
Address			City	
<u>6</u>	<u>77063</u>	<u>Harris</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Region	Zip	County	Urban	Rural

### Supplemental Credit Request Information

<u>\$ 225,000.00</u>	<u>\$ 1,500,000.00</u>	<u>\$ 105,000.00</u>	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.
Supplemental Credit Request Amount	Original Application Award Amount	Maximum Possible Supplemental Request	

### Requester Contact Information

<u>Janine Sisak</u>	<u>512-328-3232 x4505</u>
Name	Office Phone
<u>janines@dmacompanies.com</u>	
Email Address	Mobile Phone

Mailing Address:  
4101 Parkstone Heights Dr. Suite 310  
 Street

<u>Austin</u>	<u>Texas</u>	<u>78746</u>
City	State	ZIP

### Consultant Contact Information (if applicable)

<u></u>	<u></u>
Name	Office Phone
<u></u>	
Email Address	Mobile Phone

Mailing Address:  
  
 Street

<u></u>	<u></u>	<u></u>
City	State	ZIP

# UPDATED SOURCES & USES

## Schedule of Sources of Funds and Financing Narrative

*Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).*

### Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)

Bond Issuer	Funding Description	Construction Period Bonds			Permanent Period Bonds			
		Bond Amount			Bond Amount			
TDHCA	Mortgage Revenue Bond							
	Tax Exempt Bonds							
	Taxable Bonds							

### Debt

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period				Lien Position	
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)		Syndication Rate
TDHCA	Multifamily Direct Loan	\$2,180,000	0.00%	3	\$ 2,180,000	0.00%	35	35		3
Capital One Bank	Conventional Loan	\$15,664,000	3.75%	1	\$ 7,800,000	4.70%	35	15		1
City of Houston	Local Government Loan	\$11,000,000	0.00%	2	\$ 11,000,000	0.00%	35	18		2

### Third Party Equity

RBC Capital	<a href="#">HTC</a>	\$ 1,725,000	\$ 7,622,988		\$ 16,228,377				0.9409	

### Grant

City of Houston	<a href="#">§11.9(d)(2)LPS Contribution</a>				\$ 500					

### Deferred Developer Fee

DMA Development Company LLC/ J					\$ 1,993,282					

### Other

HEDK	<a href="#">Direct Loan Match</a>				\$ 165,000					

**Total Sources of Funds** \$ 36,466,988

\$ 39,367,159

**Total Uses of Funds**

\$ 39,367,159

**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

The sources and uses are as stated above.

**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

*Replacement reserves of 300 per unit per annum are shown, per the City of Houston.*

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

Rob Ellinger  
Signature, Authorized Representative, Construction or Permanent Lender

Rob Ellinger  
Printed Name  
*Director RBCC*

1/26/22  
Date

Telephone: 980-233-6452  
Email address: rob.ellinger@rbc.com

If a revised form is submitted, date of submission: \_\_\_\_\_

# UPDATED DEVELOPMENT COST SCHEDULE

## Development Cost Schedule

This Development Cost Schedule must be consistent with the Summary Sources and Uses of Funds Statement. All Supplemental Credit Requests must complete the Total Cost column. Direct Loan Applicants should review costs ineligible for reimbursement with Direct Loan funds in 10 TAC §13.3(e), while all HTC Applicants must complete the Eligible Basis columns and the Requested Credit calculation below:

	TOTAL DEVELOPMENT SUMMARY			Scratch Paper/Notes
	Total Cost	Eligible Basis (If Applicable)		
		Acquisition	New/Rehab.	
<b>ACQUISITION</b>				
Site acquisition cost	7,000,000			
Existing building acquisition cost				
Closing costs & acq. legal fees				
Other (specify) - see footnote 1				
Other (specify) - see footnote 1				
<b>Subtotal Acquisition Cost</b>	\$7,000,000	\$0	\$0	
<b>OFF-SITES<sup>2</sup></b>				
Off-site concrete				
Storm drains & devices				
Water & fire hydrants				
Off-site utilities				
Sewer lateral(s)				
Off-site paving				
Off-site electrical				
Other (specify) - see footnote 1				
Other (specify) - see footnote 1				
<b>Subtotal Off-Sites Cost</b>	\$0	\$0	\$0	
<b>SITE WORK<sup>3</sup></b>				
Demolition				
Asbestos Abatement (Demolition Only)				
Detention				
Rough grading	386,000		386,000	
Fine grading	110,000		110,000	
On-site concrete	170,500		170,500	
On-site electrical	150,000		150,000	
On-site paving	370,000		370,000	
On-site utilities	205,000		205,000	
Decorative masonry				
Bumper stops, striping & signs	15,000		15,000	
Detention & Drainage	1,505,000		1,505,000	
<b>Subtotal Site Work Cost</b>	\$2,911,500	\$0	\$2,911,500	
<b>SITE AMENITIES</b>				
Landscaping	175,000		175,000	
Pool and decking	175,000		175,000	
Athletic court(s), playground(s)	0		0	
Fencing	40,000		40,000	
Other (specify) - see footnote 1	0		0	
<b>Subtotal Site Amenities Cost</b>	\$390,000	\$0	\$390,000	
<b>BUILDING COSTS*:</b>				
Concrete	981,250		981,250	Increased by \$21,250
Masonry	450,000		450,000	
Metals	362,500		362,500	Increased by \$50,000
Woods and Plastics	4,787,419		4,787,419	Increase by \$885,419
Thermal and Moisture Protection	529,000		529,000	
Roof Covering	415,000		415,000	Increased by \$25,000
Doors and Windows	1,556,170		1,556,170	Increased by \$103,170
Finishes	2,402,670		2,402,670	
Specialties	245,000		245,000	
Equipment	257,066		257,066	
Furnishings	436,000		436,000	Increased by \$36,000
Special Construction				Pool cost in Pool and decking
Conveying Systems (Elevators)	205,000		205,000	
Mechanical (HVAC; Plumbing)	2,510,000		2,510,000	
Electrical	1,839,500		1,689,500	Increased by \$150,000





**CONSTRUCTION LOAN(S)<sup>3</sup>**

Interest	962,788		962,788
Loan origination fees	169,594		169,594
Title & recording fees	190,000		190,000
Closing costs & legal fees	100,000		100,000
Inspection fees	45,000		45,000
Credit Report			
Discount Points			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**PERMANENT LOAN(S)**

Loan origination fees	78,000		
Title & recording fees	25,000		
Closing costs & legal	50,000		
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**BRIDGE LOAN(S)**

Interest			
Loan origination fees			
Title & recording fees			
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**OTHER FINANCING COSTS<sup>3</sup>**

Tax credit fees	40,000		
Tax and/or bond counsel			
Payment bonds	165,000		
Performance bonds			
Credit enhancement fees			
Mortgage insurance premiums			
Cost of underwriting & issuance			
Syndication organizational cost	50,000		
Tax opinion			
Refinance (existing loan payoff amt)			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Financing Cost</b>	\$1,875,382	\$0	\$1,467,382

**DEVELOPER FEES<sup>3</sup>**

Housing consultant fees <sup>4</sup>	2,975,000		2,975,000
General & administrative			
Profit or fee			
<b>Subtotal Developer Fees</b>	\$2,975,000	\$0	\$2,975,000

**RESERVES**

Rent-up - new funds	215,129		
Rent-up - existing reserves*			
Operating - new funds	621,935		
Operating - existing reserves*			
Replacement - new funds			
Replacement - existing reserves*			
Escrows - new funds			
Escrows - existing reserves*			
<b>Subtotal Reserves</b>	\$837,064	\$0	\$0

**\*Any existing reserve amounts should be listed on the Schedule of Sources.**

**TOTAL HOUSING DEVELOPMENT COSTS<sup>5</sup>**

\$39,367,159	\$0	\$30,928,250
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The following calculations are for HTC Applications only.

**Deduct From Basis:**

Federal grants used to finance costs in Eligible Basis		
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BREAKDOWN MUST BE PROVIDED



UPDATED  
CONTRACTOR  
CONSTRUCTION COST  
INFORMATION

Please only type in green cells.

Project Name: Ella Grand  
 Location: Houston, TX  
 Price Run: 11/8/2021  
 Plans Dated: Round 1 Permit  
 Revision #: 1.00

Ella Grand			
Number of Units=	145.00	Unit Density =	40.73
Net Rentable SF=	118,991.00	No. of Baths =	181.00
Gross SF (Includes Club & Amenity)=	164,533.00	Garage Spaces =	-
Schedule Duration=	22.00	Carport Spaces =	-
Club SF=	6,372.00	Retail Spaces=	-
Retail SF=	-	Open Spaces =	-
Land Area=	3.56	Total Parking =	145.00
Total Parking Spaces=	145.00	Parking Density =	1.00
Residential Only Cost NRSF=	198.09	Efficiency	0.72
Average Unit SF=	820.63		

PERMIT SET RND1 COMMENTS - BUDGET

new cost code	Description	Contract/Budget	Budget per NRSF	Budget per unit	Notes
<b>DIVISION 01 - GENERAL CONDITIONS</b>					
011116	011116 - Work by General Contractor	-	0.00	0.00	
011199	011199 - GC - General Conditions	-	0.00	0.00	
012113	012113 - Cash Allowances	-	0.00	0.00	
012116	012116 - Contingency Allowances	-	0.00	0.00	
012123	012123 - Installation Allowances	-	0.00	0.00	
012126	012126 - Product Allowances	-	0.00	0.00	
012129	012129 - Quantity Allowances	-	0.00	0.00	
012143	012143 - Time Allowances	-	0.00	0.00	
012413	012413 - Value Engineering	-	0.00	0.00	
013007	013007 - Preconstruction Payroll	-	0.00	0.00	
013008	013008 - Preconstruction Burden	-	0.00	0.00	
013009	013009 - Payroll	762,000.00	6.40	5,255.17	
013010	013010 - Burden	186,690.00	1.57	1,287.52	
013011	013011 - Special Payroll	-	0.00	0.00	
013027	013027 - Temporary Travel	18,000.00	0.15	124.14	
013028	013028 - Fuel	5,000.00	0.04	34.48	
013029	013029 - Temporary Living Expenses	-	0.00	0.00	
013030	013030 - Meals & Entertainment	7,000.00	0.06	48.28	
013031	013031 - Radio Equipment	-	0.00	0.00	
013032	013032 - Ice/Water and Cups	1,000.00	0.01	6.90	
013033	013033 - Rentals	-	0.00	0.00	
013034	013034 - Reproduction	12,000.00	0.10	82.76	
013035	013035 - Delivery Service Postal	1,000.00	0.01	6.90	
013036	013036 - Small Tools	-	0.00	0.00	
013037	013037 - Site Security	-	0.00	0.00	
013038	013038 - Remodel Sales Tax	-	0.00	0.00	
013039	013039 - Liquidated Damages	-	0.00	0.00	
013040	013040 - Office Supplies	10,000.00	0.08	68.97	
013041	013041 - Office Equipment	7,000.00	0.06	48.28	
013042	013042 - Mileage Gas Refund	-	0.00	0.00	
013119	013119 - Project Meetings	-	0.00	0.00	
013216	013216 - Construction Progress Schedule	-	0.00	0.00	
013219	013219 - Submittals Schedule	-	0.00	0.00	
013223	013223 - Survey and Layout Data	-	0.00	0.00	
013229	013229 - Periodic Work Observation	15,000.00	0.13	103.45	
013233	013233 - Photographic Documentation	-	0.00	0.00	
013323	013323 - Shop Drawings   Product Data   Samples	-	0.00	0.00	
013513	013513 - Special Project procedures	-	0.00	0.00	
013523	013523 - Owner Safety Requirements	21,600.00	0.18	148.97	
013526	013526 - Governmental Safety Requirements first aid	-	0.00	0.00	
013529	013529 - Temp Fire Extinguishers	5,000.00	0.04	34.48	
013591	013591 - Historic Treatment Procedures	-	0.00	0.00	
014126	014126 - Permits third party General Contractor.	-	0.00	0.00	
014329	014329 - Code Required Special Inspector Qualifications	-	0.00	0.00	
014339	014339 - Mockups	-	0.00	0.00	
015113	015113 - Temporary Electricity	-	0.00	0.00	
015116	015116 - Temporary Fire Protection	-	0.00	0.00	
015119	015119 - Temporary Fuel Oil	-	0.00	0.00	
015123	015123 - Temporary Heating   Cooling   Ventilating	-	0.00	0.00	
015126	015126 - Temporary Lighting	-	0.00	0.00	
015129	015129 - Temporary Natural-Gas	-	0.00	0.00	
015133	015133 - Temporary Telecommunications	15,000.00	0.13	103.45	
015136	015136 - Temporary Water	10,000.00	0.08	68.97	
015213	015213 - Field Offices and Sheds	18,000.00	0.15	124.14	
015219	015219 - Sanitary Facilities	14,000.00	0.12	96.55	
015299	015299 - Storage Trailer	10,000.00	0.08	68.97	
015313	015313 - Temporary Bridges	-	0.00	0.00	
015316	015316 - Temporary Decking	-	0.00	0.00	
015323	015323 - Temporary Ramps	-	0.00	0.00	
015398	015398 - Safety Rails	-	0.00	0.00	
015399	015399 - Temporary Stairs & Rails	-	0.00	0.00	
015423	015423 - Temporary Scaffolding and Platforms	-	0.00	0.00	
015519	015519 - Temporary Parking Areas	-	0.00	0.00	
015523	015523 - Temporary Roads	-	0.00	0.00	
015526	015526 - Traffic Control	-	0.00	0.00	
015529	015529 - Staging Areas	-	0.00	0.00	
015613	015613 - Temporary Air Barriers	-	0.00	0.00	
015616	015616 - Temporary Dust Barriers	-	0.00	0.00	
015619	015619 - Temporary Noise Barrier	-	0.00	0.00	
015623	015623 - Temporary Barricades	-	0.00	0.00	
015626	015626 - Temporary Fencing	-	0.00	0.00	
015629	015629 - Temporary Protective Walkways	-	0.00	0.00	
015633	015633 - Temporary Security Barriers	-	0.00	0.00	
015639	015639 - Temporary Tree and Plant Protection	-	0.00	0.00	
015699	015699 - Temporary Weather Protection	-	0.00	0.00	
015713	015713 - Temporary Erosion and Sediment Control	-	0.00	0.00	
015716	015716 - Temporary Pest Control	-	0.00	0.00	
015719	015719 - Temporary Environmental Controls	-	0.00	0.00	
015723	015723 - Temporary Storm Water Pollution Control	-	0.00	0.00	
015813	015813 - Temporary Project Signage	3,500.00	0.03	24.14	
015814	015814 - Truck Allowance	-	0.00	0.00	
016113	016113 - Software Licensing Requirements	12,000.00	0.10	82.76	
016499	016499 - Owner Furnished Product	-	0.00	0.00	
016613	016613 - Product Storage and Handling	-	0.00	0.00	
017113	017113 - Mobilization	-	0.00	0.00	
017123	017123 - Field Engineering	-	0.00	0.00	
017133	017133 - Protection of Adjacent Construction	-	0.00	0.00	
017413	017413 - Progress Cleaning	-	0.00	0.00	
017416	017416 - Site Maintenance	-	0.00	0.00	
017419	017419 - Construction Waste Management and Disposal	-	0.00	0.00	
017423	017423 - Final Cleaning	-	0.00	0.00	
017498	017498 - Clean up Labor	-	0.00	0.00	
017499	017499 - Site Clean up	-	0.00	0.00	
017799	017799 - Closeout Procedures	-	0.00	0.00	

017823	017823 - Operation and Maintenance Data	-	0.00	0.00	
017829	017829 - Final Site Survey	-	0.00	0.00	
017836	017836 - Warranties	-	0.00	0.00	
017839	017839 - Project Record Documents	-	0.00	0.00	
017843	017843 - Spare Parts	-	0.00	0.00	
017846	017846 - Extra Stock Materials	-	0.00	0.00	
017899	017899 - Punchout Supplies	-	0.00	0.00	
<b>DIVISION 1 TOTAL</b>			<b>1,133,790.00</b>	<b>9.53</b>	<b>7,819.24</b>

**DIVISION 02 - EXISTING CONDITIONS**

020150	020150 - Maintenance of Site Remediation	-	0.00	0.00	
020519	020519 - Geosynthetic Geosynthetics for Existing Conditions	-	0.00	0.00	
023219	023219 - Exploratory Excavations	-	0.00	0.00	
024199	024199 - Demolition	-	0.00	0.00	
024291	024291 - Removal and Salvage of Historic Materials	-	0.00	0.00	
024313	024313 - Structure Relocation	-	0.00	0.00	
025199	025199 - Physical Decontamination	-	0.00	0.00	
025299	025299 - Chemical Decontamination	-	0.00	0.00	
025599	025599 - Remediation Remediation Soil Stabilization	-	0.00	0.00	
025613	025613 - Waste Containment	-	0.00	0.00	
025799	025799 - Sinkhole Remediation	-	0.00	0.00	
025899	025899 - Snow Control	-	0.00	0.00	
026599	026599 - Underground Storage Tank Removal	-	0.00	0.00	
026699	026699 - Landfill Construction and Storage	-	0.00	0.00	
027099	027099 - Water Remediation	-	0.00	0.00	
028199	028199 - Transportation and Disposition of Hazardous Materials	-	0.00	0.00	
028213	028213 - Asbestos Abatement	-	0.00	0.00	
028399	028399 - Lead Remediation	-	0.00	0.00	
028519	028519 - Mold Remediation Clearance Air Sampling	-	0.00	0.00	
028533	028533 - Removal and Disposal of Containment Materials	-	0.00	0.00	
028700	028700 - Biohazard Remediation	-	0.00	0.00	
028713	028713 - Mold Remediation	-	0.00	0.00	
<b>DIVISION 02 TOTAL</b>			<b>0.00</b>	<b>0.00</b>	

**DIVISION 03 - CONCRETE**

030199	030199 - Maintenance of Concrete	-	0.00	0.00	
031113	031113 - Structural Cast in Place Concrete Forming	-	0.00	0.00	
031114	031114 - Precast Parking Garages	-	0.00	0.00	
031513	031513 - Waterstops	-	0.00	0.00	
031521	031521 - Termite Barrier	-	0.00	0.00	
031599	031599 - Concrete Accessory	-	0.00	0.00	
032116	032116 - Epoxy Coated Reinforcing Steel	-	0.00	0.00	
032213	032213 - Galvanized Welded Wire Fabric Reinforcing	-	0.00	0.00	
033053	033053 - Miscellaneous Cast in Place Concrete	-	0.00	0.00	
033113	033113 - Heavyweight Structural Concrete	-	0.00	0.00	
033116	033116 - Lightweight Structural Concrete	133,900.00	1.13	923.45	
033399	033399 - Architectural Concrete	-	0.00	0.00	
033516	033516 - Heavy-Duty Concrete Flo	-	0.00	0.00	
033519	033519 - Colored Concrete Finish	-	0.00	0.00	
033523	033523 - Exposed Aggregate Concrete Finishing	-	0.00	0.00	
033526	033526 - Grooved Concrete Surface Finishing	-	0.00	0.00	
033529	033529 - Tooled Concrete Finishing	-	0.00	0.00	
033533	033533 - Stamped Concrete Finish	-	0.00	0.00	
033546	033546 - Concrete Topical Treatments	-	0.00	0.00	
033713	033713 - Shotcrete	-	0.00	0.00	
033716	033716 - Pumped Concrete	-	0.00	0.00	
033899	033899 - Post-Tensioned Concrete	595,000.00	5.00	4,103.45	
033913	033913 - Water Concrete Curing	-	0.00	0.00	
033923	033923 - Membrane Concrete Curing	-	0.00	0.00	
034113	034113 - Precast Concrete Hollow Core Planks	-	0.00	0.00	
034116	034116 - Precast Concrete Slabs	-	0.00	0.00	
034123	034123 - Precast Concrete Stairs	-	0.00	0.00	
034133	034133 - Precast Structural Pretensioned Concrete	-	0.00	0.00	
034599	034599 - Precast Architectural Concrete	-	0.00	0.00	
034713	034713 - Tilt-Up Concrete	-	0.00	0.00	
034716	034716 - Lift-Slab Concrete	-	0.00	0.00	
034799	034799 - Tilt up Hardware and Engineering	-	0.00	0.00	
034813	034813 - Precast Concrete Bollards	-	0.00	0.00	
034816	034816 - Precast Concrete Splash Blocks	-	0.00	0.00	
034819	034819 - Precast Concrete Stair Treads	-	0.00	0.00	
034913	034913 - Glass Fiber Rein. Conc Column Covers	-	0.00	0.00	
035299	035299 - Lightweight Insulating Concrete	-	0.00	0.00	
035319	035319 - Concrete Overlayment	-	0.00	0.00	
035399	035399 - Concrete Topping	-	0.00	0.00	
035413	035413 - Gypsum Cement Underlayment	252,350.00	2.12	1,740.34	
036113	036113 - Dry-Pack Grouting	-	0.00	0.00	
036423	036423 - Epoxy Injection Grouting	-	0.00	0.00	
038199	038199 - Concrete Cutting	-	0.00	0.00	
038213	038213 - Concrete Core Drilling	-	0.00	0.00	
<b>DIVISION 03 TOTAL</b>			<b>981,250.00</b>	<b>8.25</b>	<b>6,767.24</b>

**DIVISION 4 - MASONRY**

040513	040513 - Masonry Mortaring	-	0.00	0.00	
040516	040516 - Masonry Grouting	-	0.00	0.00	
040519	040519 - Masonry Anchorage and Reinforcing	-	0.00	0.00	
040523	040523 - Masonry Accessories	-	0.00	0.00	
042113	042113 - Brick Masonry	370,000.00	3.11	2,551.72	\$550/1000 Brick Allowance
042116	042116 - Ceramic Glazed Clay Masonry	-	0.00	0.00	
042223	042223 - Architectural Concrete Unit Masonry	-	0.00	0.00	
042229	042229 - Split Face Concrete Unit Masonry	-	0.00	0.00	
042233	042233 - Interlocking Concrete Unit Masonry	80,000.00	0.67	551.72	Site Masonry
042399	042399 - Glass Unit Masonry	-	0.00	0.00	
042599	042599 - Unit Masonry Panels	-	0.00	0.00	
044199	044199 - Dry-Placed Stone	-	0.00	0.00	
044299	044299 - Exterior Stone Cladding	-	0.00	0.00	
044316	044316 - Stone Fabrications	-	0.00	0.00	
044399	044399 - Stone Masonry	-	0.00	0.00	
045799	045799 - Masonry Fireplaces	-	0.00	0.00	
047199	047199 - Manufactured Brick Masonry	-	0.00	0.00	
047299	047299 - Cast Stone Masonry	-	0.00	0.00	
047399	047399 - Manufactured Stone Masonry	-	0.00	0.00	
<b>DIVISION 04 TOTAL</b>			<b>450,000.00</b>	<b>3.78</b>	<b>3,103.45</b>

**DIVISION 5 - METALS**

051223	051223 - Structural Steel for Buildings	198,500.00	1.67	1,368.97	
051233	051233 - Structural Steel for Bridges	-	0.00	0.00	
051413	051413 - Architecturally Exposed Struct. Alum. Framing	-	0.00	0.00	
051513	051513 - Wire Rope Assemblies	-	0.00	0.00	
051633	051633 - Bridge Cabling	-	0.00	0.00	

052119	052119 - Open Web Steel Joist Framing	-	0.00	0.00
053113	053113 - Steel Floor Decking	-	0.00	0.00
053123	053123 - Steel Roof Decking	-	0.00	0.00
053323	053323 - Aluminum Roof Decking	-	0.00	0.00
053499	053499 - Acoustical Metal Decking	-	0.00	0.00
054199	054199 - Structural Metal Stud F	-	0.00	0.00
054599	054599 - Metal Support Assemblies	-	0.00	0.00
055113	055113 - Metal Pan Stairs	-	0.00	0.00
055119	055119 - Metal Grating Stairs	-	0.00	0.00
055123	055123 - Metal Fire Escapes	-	0.00	0.00
055133	055133 - Metal Ladders	-	0.00	0.00
055136	055136 - Catwalks	-	0.00	0.00
055199	055199 - Steel Stairs	99,000.00	0.83	682.76
055213	055213 - Pipe and Tube Railings	-	0.00	0.00
055319	055319 - Expanded Metal Gratings	-	0.00	0.00
055399	055399 - Metal Gratings	-	0.00	0.00
055499	055499 - Metal Floor Plates	-	0.00	0.00
055513	055513 - Metal Stair Treads	-	0.00	0.00
055516	055516 - Metal Stair Nosings	-	0.00	0.00
055813	055813 - Column Covers	-	0.00	0.00
057199	057199 - Decorative Metal Railings	65,000.00	0.55	448.28
<b>DIVISION 05 TOTAL</b>		<b>362,500.00</b>	<b>3.05</b>	<b>2,500.00</b>

**DIVISION 6 - WOOD, PLASTICS AND COMPOSITES**

061052	061052 - Wood Framing	1,221,917.00	10.27	8,427.01	Allowance
061053	061053 - Miscellaneous Rough Carpentry Labor	-	0.00	0.00	
061113	061113 - Engineered Wood Products	-	0.00	0.00	
061296	061296 - Structural Hardware	145,000.00	1.22	1,000.00	
061299	061299 - Structural Panels	82,500.00	0.69	568.97	
061399	061399 - Heavy Timber	-	0.00	0.00	
061513	061513 - Wood Floor Decking	-	0.00	0.00	
061516	061516 - Wood Roof Decking	-	0.00	0.00	
061523	061523 - Laminated Wood Decking	-	0.00	0.00	
061613	061613 - Insulating Sheathing	-	0.00	0.00	
061623	061623 - Subflooring	-	0.00	0.00	
061626	061626 - Underlayment	-	0.00	0.00	
061629	061629 - Acoustical Underlayment	-	0.00	0.00	
061643	061643 - Gypsum Sheathing	-	0.00	0.00	
061653	061653 - Moisture Resistant Sheathing Board	-	0.00	0.00	
061663	061663 - Cementitious Sheathing	-	0.00	0.00	
061753	061753 - Shop Fabricated Wood Trusses	1,400,000.00	11.77	9,655.17	Allowance
061899	061899 - Glued Laminated Construction	-	0.00	0.00	
062013	062013 - Exterior Finish Carpentry - Labor	1,125,000.00	9.45	7,758.62	
062023	062023 - Interior Finish Carpentry	-	0.00	0.00	
062213	062213 - Standard Pattern Wood Trim Millwork	1,431,169.60	12.03	9,870.14	
062599	062599 - Prefinished Paneling	-	0.00	0.00	
062699	062699 - Fire Retardant Lumber	-	0.00	0.00	
064013	064013 - Exterior Architectural Woodwork	-	0.00	0.00	
064023	064023 - Interior Architectural Woodwork	50,000.00	0.42	344.83	Allowance
064113	064113 - Wood Veneer Faced Cabinets	390,000.00	3.28	2,689.66	Allowance
064123	064123 - Plastic Laminated Clad Cabinets	-	0.00	0.00	
064299	064299 - Wood Paneling	-	0.00	0.00	
064313	064313 - Wood Stairs	-	0.00	0.00	
064316	064316 - Wood Railings	-	0.00	0.00	
064423	064423 - Wood Corbels	-	0.00	0.00	
064426	064426 - Wood Cupolas	-	0.00	0.00	
064429	064429 - Wood Finials	-	0.00	0.00	
064433	064433 - Wood Mantels	-	0.00	0.00	
064436	064436 - Wood Pediment Heads	-	0.00	0.00	
064439	064439 - Wood Posts and Columns	-	0.00	0.00	
064619	064619 - Wood Base and Shoe Moldings	-	0.00	0.00	
064623	064623 - Wood Chair Rails	-	0.00	0.00	
064626	064626 - Wood Cornices	-	0.00	0.00	
064629	064629 - Wood Fascia and Soffits	-	0.00	0.00	
064813	064813 - Exterior Wood Door Frames	-	0.00	0.00	
064816	064816 - Interior Wood Door Frames	-	0.00	0.00	
064919	064919 - Exterior Wood Shutters	-	0.00	0.00	
065099	065099 - Structural Plastics	-	0.00	0.00	
066113	066113 - Cultured Marble Fabrications	-	0.00	0.00	
066116	066116 - Solid Surfacing Fabrications	-	0.00	0.00	
066399	066399 - Plastic Railings	-	0.00	0.00	
066599	066599 - Plastic Simulated Wood	-	0.00	0.00	
066799	066799 - GC Gen. Labor & Punchou	200,000.00	1.68	1,379.31	
067099	067099 - Structural Composites	-	0.00	0.00	
<b>DIVISION 06 TOTAL</b>		<b>6,045,586.60</b>	<b>50.81</b>	<b>41,693.70</b>	

**DIVISION 7 - THERMAL AND MOISTURE PROTECTION**

071199	071199 - Dampproofing	-	0.00	0.00	
071213	071213 - Built-Up Asphalt Waterproofing	-	0.00	0.00	
071313	071313 - Bituminous Sheet Waterproofing	-	0.00	0.00	
071326	071326 - Self-Adhering Sheet Waterproofing	-	0.00	0.00	
071352	071352 - Modified Bituminous Sheet Waterproofing	21,000.00	0.18	144.83	
071499	071499 - Fluid-Applied Waterproofing	-	0.00	0.00	
071599	071599 - Sheet Metal Waterproofing	-	0.00	0.00	
071799	071799 - Bentonite Waterproofing	-	0.00	0.00	
071813	071813 - Pedestrian Traffic Coatings	-	0.00	0.00	
071816	071816 - Vehicular Traffic Coatings	-	0.00	0.00	
071916	071916 - Silicone Water Repellent	-	0.00	0.00	
072113	072113 - Board Insulation	-	0.00	0.00	
072116	072116 - Blanket Insulation	-	0.00	0.00	
072119	072119 - Foamed-in-Place Insulation	-	0.00	0.00	
072123	072123 - Loose-Fill Insulation	410,000.00	3.45	2,827.59	
072126	072126 - Blown Insulation	-	0.00	0.00	
072129	072129 - Sprayed Insulation	-	0.00	0.00	
072213	072213 - Roof and Deck Insulation	-	0.00	0.00	
072499	072499 - Exterior Insulation and Finish Systems	-	0.00	0.00	
072599	072599 - Weather Barriers	20,000.00	0.17	137.93	
072699	072699 - Vapor Retarders	-	0.00	0.00	
073113	073113 - Asphalt Shingles	-	0.00	0.00	
073116	073116 - Metal Shingles	-	0.00	0.00	
073119	073119 - Mineral-Fiber Cement Shingles	-	0.00	0.00	
073126	073126 - Slate Shingles	-	0.00	0.00	
073129	073129 - Wood Shingles and Shakes	-	0.00	0.00	
073213	073213 - Clay Roof Tiles	-	0.00	0.00	
073216	073216 - Concrete Roof Tiles	-	0.00	0.00	
073219	073219 - Metal Roof Tiles	-	0.00	0.00	
074113	074113 - Metal Roof Panels	-	0.00	0.00	
074116	074116 - Insulated Metal Roof Panels	-	0.00	0.00	
074213	074213 - Metal Wall Panels	-	0.00	0.00	
074226	074226 - Tile Wall Panels	-	0.00	0.00	
074616	074616 - Aluminum Siding	-	0.00	0.00	
074624	074624 - Wood Shingle and Shake Siding	-	0.00	0.00	
074626	074626 - Hardboard Siding	-	0.00	0.00	

074633	074633 - Plastic Siding	Plastic Siding	-	0.00	0.00
074643	074643 - Composition	Composition Siding	-	0.00	0.00
074646	074646 - Mineral Fiber	Mineral-Fiber Cement Siding	-	0.00	0.00
074663	074663 - Fabricated Panel	Fabricated Panel Assemblies with Siding	-	0.00	0.00
075113	075113 - Built-Up Asphalt	Built-Up Asphalt Roofing	-	0.00	0.00
075116	075116 - Built-Up Coal Tar	Built-Up Coal Tar Roofing	-	0.00	0.00
075299	075299 - Modified Bituminous	Modified Bituminous Membrane Roofing	415,000.00	3.49	2,862.07
075329	075329 - Polyisobutylene	Polyisobutylene Roofing	-	0.00	0.00
076113	076113 - Standing Seam	Standing Seam Sheet Metal Roofing	-	0.00	0.00
076299	076299 - Sheet Metal Flashing	Sheet Metal Flashing and Trim	15,000.00	0.13	103.45
076399	076399 - Sheet Metal Roofing	Sheet Metal Roofing Specialties	-	0.00	0.00
076523	076523 - Rubber Sheet	Rubber Sheet Flashing	-	0.00	0.00
076526	076526 - Self Adhering	Self Adhering Sheet Flashing	-	0.00	0.00
077113	077113 - Manufactured	Manufactured Copings	-	0.00	0.00
077116	077116 - Manufactured	Manufactured Gutters and Downspouts	-	0.00	0.00
077126	077126 - Reglets	Reglets	-	0.00	0.00
077129	077129 - Manufactured	Manufactured Roof Expansion Joints	-	0.00	0.00
077133	077133 - Manufactured	Manufactured Scuppers	-	0.00	0.00
077213	077213 - Manufactured	Manufactured Curbs	-	0.00	0.00
077223	077223 - Relief Vents	Relief Vents	-	0.00	0.00
077226	077226 - Ridge Vents	Ridge Vents	-	0.00	0.00
077233	077233 - Roof Hatches	Roof Hatches	-	0.00	0.00
077236	077236 - Smoke Vents	Smoke Vents	-	0.00	0.00
077239	077239 - Operable Roof	Operable Roof Vents	-	0.00	0.00
077246	077246 - Roof Walkways	Roof Walkways	-	0.00	0.00
077253	077253 - Snow Guards	Snow Guards	-	0.00	0.00
077613	077613 - Roof Ballast Pavers	Roof Ballast Pavers	-	0.00	0.00
077616	077616 - Roof Decking	Roof Decking Pavers	-	0.00	0.00
077799	077799 - Wall Specialties	Wall Specialties	-	0.00	0.00
078116	078116 - Cementitious	Cementitious Fireproofing	-	0.00	0.00
078123	078123 - Intumescent Mastic	Intumescent Mastic Fireproofing	15,000.00	0.13	103.45
078129	078129 - Mineral Fiber	Mineral Fiber Cementitious Fireproofing	-	0.00	0.00
078133	078133 - Mineral Fiber	Mineral Fiber Fireproofing	-	0.00	0.00
078443	078443 - Fire Resistant	Fire Resistant Joint Sealants	-	0.00	0.00
078453	078453 - Building Perimeter	Building Perimeter Firestopping	-	0.00	0.00
078456	078456 - Fire Safing	Fire Safing	-	0.00	0.00
078699	078699 - Smoke Seals	Smoke Seals	-	0.00	0.00
079113	079113 - Compression	Compression Seals	-	0.00	0.00
079116	079116 - Joint Gaskets	Joint Gaskets	-	0.00	0.00
079123	079123 - Backer Rods	Backer Rods	-	0.00	0.00
079126	079126 - Joint Fillers	Joint Fillers	-	0.00	0.00
079213	079213 - Elastomeric	Elastomeric Joint Sealants	48,000.00	0.40	331.03
079513	079513 - Expansion Joint	Expansion Joint Cover Assemblies	-	0.00	0.00
079514	079514 - Interior Expansion	Interior Expansion Joint Cover Assemblies	-	0.00	0.00
079515	079515 - Exterior Expansion	Exterior Expansion Joint Cover Assemblies	-	0.00	0.00
079516	079516 - Parking Deck	Parking Deck Expansion Joint Cover Assemblies	-	0.00	0.00
<b>DIVISION 07 TOTAL</b>			<b>944,000.00</b>	<b>7.93</b>	<b>6,510.34</b>

**DIVISION 08 - OPENINGS**

081113	081113 - Hollow Metal	Hollow Metal Doors and Frames	-	0.00	0.00
081116	081116 - Aluminum Doors	Aluminum Doors and Frames	110,000.00	0.92	758.62
081173	081173 - Sliding Metal	Sliding Metal Firedoors	-	0.00	0.00
081174	081174 - Sliding Metal	Sliding Metal Grilles	-	0.00	0.00
081213	081213 - Hollow Metal	Hollow Metal Frames	-	0.00	0.00
081313	081313 - Hollow Metal	Hollow Metal Doors	-	0.00	0.00
081316	081316 - Aluminum Terrace	Aluminum Terrace Doors	-	0.00	0.00
081376	081376 - Bifolding Metal	Bifolding Metal Doors	-	0.00	0.00
081416	081416 - Flush Wood	Flush Wood Doors	-	0.00	0.00
081423	081423 - Clad Wood	Clad Wood Doors	-	0.00	0.00
081476	081476 - Bifolding Wood	Bifolding Wood Doors	-	0.00	0.00
081513	081513 - Laminated Plastic	Laminated Plastic Doors	-	0.00	0.00
081699	081699 - Composite	Composite Doors	-	0.00	0.00
081713	081713 - Integrated Metal	Integrated Metal Door Opening Assemblies	-	0.00	0.00
081723	081723 - Integrated Wood	Integrated Wood Door Opening Assemblies	-	0.00	0.00
083199	083199 - Access Doors	Access Doors and Panels	-	0.00	0.00
083213	083213 - Sliding Aluminum	Sliding Aluminum Framed Glass Doors	-	0.00	0.00
083216	083216 - Sliding Plastic	Sliding Plastic Framed Glass Doors	-	0.00	0.00
083313	083313 - Coiling Counter	Coiling Counter Doors	-	0.00	0.00
083316	083316 - Coiling Counter	Coiling Counter Grilles	-	0.00	0.00
083323	083323 - Overhead Coiling	Overhead Coiling Doors	8,000.00	0.07	55.17
083326	083326 - Overhead Coiling	Overhead Coiling Grilles	-	0.00	0.00
083456	083456 - Security Gates	Security Gates	-	0.00	0.00
083473	083473 - Metal Sound Control	Metal Sound Control Door Assemblies	-	0.00	0.00
083516	083516 - Folding Grilles	Folding Grilles	-	0.00	0.00
083619	083619 - Multi Leaf Vertical	Multi Leaf Vertical Lift Doors	-	0.00	0.00
084113	084113 - Aluminum Framed	Aluminum Framed Entrances and Storefronts	-	0.00	0.00
084126	084126 - All Glass Entrances	All Glass Entrances and Storefronts	-	0.00	0.00
084213	084213 - Aluminum-Framed	Aluminum-Framed Entrances	-	0.00	0.00
084229	084229 - Automatic Entrances	Automatic Entrances	-	0.00	0.00
084233	084233 - Revolving Doors	Revolving Door Entrances	-	0.00	0.00
084413	084413 - Glazed Aluminum	Glazed Aluminum Curtain Walls	-	0.00	0.00
084426	084426 - Metal Framed Point	Metal Framed Point Supported Glass Curtain Walls	-	0.00	0.00
084599	084599 - Translucent Wall	Translucent Wall and Roof Assemblies	-	0.00	0.00
084600	084600 - Window Wall	Window Wall Assemblies	-	0.00	0.00
085113	085113 - Aluminum Windows	Aluminum Windows	125,000.00	1.05	862.07
085116	085116 - Bronze Windows	Bronze Windows	-	0.00	0.00
085117	085117 - Hurricane	Hurricane Windows	-	0.00	0.00
085299	085299 - Wood Windows	Wood Windows	-	0.00	0.00
085399	085399 - Vinyl Windows	Vinyl Windows	-	0.00	0.00
085499	085499 - Composite Windows	Composite Windows	-	0.00	0.00
085599	085599 - Pressure-Resistant	Pressure-Resistant Window	-	0.00	0.00
085699	085699 - Special Function	Special Function Window	-	0.00	0.00
086299	086299 - Unit Skylights	Unit Skylights	-	0.00	0.00
087113	087113 - Automatic Door	Automatic Door Operator	-	0.00	0.00
087153	087153 - Security Door	Security Door Hardware	-	0.00	0.00
087154	087154 - Unit Hardware	Unit Hardware	130,000.00	1.09	896.55
087156	087156 - Common Space	Common Space Hardware	-	0.00	0.00
087400	087400 - Access Control	Access Control Hardware	-	0.00	0.00
087413	087413 - Card Key Access	Card Key Access Control Hardware	-	0.00	0.00
087416	087416 - Keypad Access	Keypad Access Control Hardware	-	0.00	0.00
087417	087417 - Access Control	Access Control Hardware Devices	-	0.00	0.00
087418	087418 - Standard Card	Standard Card Readers	-	0.00	0.00
087419	087419 - Keypads	Keypads	-	0.00	0.00
087599	087599 - Window Hardware	Window Hardware	-	0.00	0.00
087913	087913 - Key Storage	Key Storage Equipment	-	0.00	0.00
088123	088123 - Exterior Glass	Exterior Glass Glazing	-	0.00	0.00
088126	088126 - Interior Glass	Interior Glass Glazing	-	0.00	0.00
088313	088313 - Mirrored Glass	Mirrored Glass Glazing	-	0.00	0.00
088399	088399 - Mirrors	Mirrors	40,000.00	0.34	275.86
089113	089113 - Motorized Wall	Motorized Wall Louvers	-	0.00	0.00
089116	089116 - Operable Wall	Operable Wall Louvers	-	0.00	0.00
089119	089119 - Fixed Louvers	Fixed Louvers	-	0.00	0.00
089513	089513 - Soffit Vents	Soffit Vents	-	0.00	0.00
<b>DIVISION 08 TOTAL</b>			<b>413,000.00</b>	<b>3.47</b>	<b>2,848.28</b>

**DIVISION 09 - FINISHES**

092116	092116 - Gypsum Board	Gypsum Board Assemblies	1,240,000.00	10.42	8,551.72	
092213	092213 - Metal Furring	Metal Furring	-	0.00	0.00	
092216	092216 - Non Structural	Non Structural Metal Framing	-	0.00	0.00	
092226	092226 - Suspension S	Suspension Systems	-	0.00	0.00	
092236	092236 - Lath	Lath	-	0.00	0.00	
092399	092399 - Gypsum Plaster	Gypsum Plastering	-	0.00	0.00	
092413	092413 - Adobe Finish	Adobe Finish	-	0.00	0.00	
092423	092423 - Portland Cement	Portland Cement Stucco	270,000.00	2.27	1,862.07	
092499	092499 - EIFS	EIFS	-	0.00	0.00	
092982	092982 - Gypsum Board	Gypsum Board Fireproofing	-	0.00	0.00	
093013	093013 - Ceramic Tiling	Ceramic Tiling	75,000.00	0.63	517.24	
093016	093016 - Quarry Tiling	Quarry Tiling	-	0.00	0.00	
093019	093019 - Paver Tiling	Paver Tiling	-	0.00	0.00	
093029	093029 - Metal Tiling	Metal Tiling	-	0.00	0.00	
093033	093033 - Stone Tiling	Stone Tiling	-	0.00	0.00	
093199	093199 - Thin-Set Tiling	Thin-Set Tiling	-	0.00	0.00	
093299	093299 - Mortar-Bed Tiling	Mortar-Bed Tiling	-	0.00	0.00	
093499	093499 - Waterproofing	Waterproofing Membrane Tiling	-	0.00	0.00	
095113	095113 - Acoustical Panel	Acoustical Panel Ceilings	-	0.00	0.00	
095123	095123 - Acoustical Tile	Acoustical Tile Ceiling	-	0.00	0.00	
095399	095399 - Acoustical Ceiling	Acoustical Ceiling Suspension Assemblies	-	0.00	0.00	
095433	095433 - Decorative Panel	Decorative Panel Ceilings	-	0.00	0.00	
095613	095613 - Gypsum Panel	Gypsum Panel Textured Ceilings	-	0.00	0.00	
096199	096199 - Flooring Treat	Flooring Treatment	-	0.00	0.00	
096219	096219 - Laminate Floor	Laminate Flooring	-	0.00	0.00	
096313	096313 - Brick Flooring	Brick Flooring	-	0.00	0.00	
096419	096419 - Wood Compos	Wood Composition Flooring	-	0.00	0.00	
096423	096423 - Wood Parquet	Wood Parquet Flooring	-	0.00	0.00	
096429	096429 - Wood Strip and	Wood Strip and Plank Flooring	54,720.00	0.46	377.38	
096433	096433 - Laminated Wood	Laminated Wood Flooring	-	0.00	0.00	
096436	096436 - Special Custom	Special Custom Flooring	-	0.00	0.00	
096453	096453 - Resilient Wood	Resilient Wood Flooring	247,950.00	2.08	1,710.00	
096513	096513 - Resilient Base	Resilient Base and Accessories	-	0.00	0.00	
096516	096516 - Resilient Sheet	Resilient Sheet Flooring	-	0.00	0.00	
096519	096519 - Resilient Tile	Resilient Tile Flooring	-	0.00	0.00	
096699	096699 - Terrazzo Floor	Terrazzo Flooring	-	0.00	0.00	
096713	096713 - Elastomeric L	Elastomeric Liquid Flooring	-	0.00	0.00	
096813	096813 - Tile Carpeting	Tile Carpeting	-	0.00	0.00	
096816	096816 - Sheet Carpet	Sheet Carpeting	-	0.00	0.00	
096913	096913 - Rigid-Grid Ac	Rigid-Grid Access Floor	-	0.00	0.00	
097223	097223 - Wallpapering	Wallpapering	-	0.00	0.00	
097399	097399 - Wall Carpet	Wall Carpeting	-	0.00	0.00	
097723	097723 - Fabric-Wrapped	Fabric-Wrapped Panels	-	0.00	0.00	
098399	098399 - Acoustic Finish	Acoustic Finishes	-	0.00	0.00	
099113	099113 - Exterior Paint	Exterior Painting	-	0.00	0.00	
099123	099123 - Interior Paint	Interior Painting - Includes Exterior	450,000.00	3.78	3,103.45	
099399	099399 - Staining and	Staining and Transparent Finishing	-	0.00	0.00	
099499	099499 - Decorative Fin	Decorative Finishing	-	0.00	0.00	
099656	099656 - Epoxy Coating	Epoxy Coatings	-	0.00	0.00	
099713	099713 - Steel Coating	Steel Coatings	-	0.00	0.00	
099723	099723 - Concrete and	Concrete and Masonry Coatings	-	0.00	0.00	
099726	099726 - Cementitious	Cementitious Coatings	-	0.00	0.00	
099799	099799 - GC Punchout	GC Punchout Supplies	25,000.00	0.21	172.41	
099899	099899 - GC Rough & F	GC Rough & Final Clean	40,000.00	0.34	275.86	
<b>DIVISION 09 TOTAL</b>			<b>2,402,670.00</b>	<b>20.19</b>	<b>16,570.14</b>	

**DIVISION 10 - SPECIALTIES**

101113	101113 - Chalkboards	Chalkboards	-	0.00	0.00	
101116	101116 - Markerboards	Markerboards	-	0.00	0.00	
101123	101123 - Tackboards	Tackboards	-	0.00	0.00	
101299	101299 - Display Cases	Display Cases	-	0.00	0.00	
101399	101399 - Directories	Directories	-	0.00	0.00	
101416	101416 - Plaques	Plaques	-	0.00	0.00	
101433	101433 - Signage	Signage	60,000.00	0.50	413.79	Allowance
101439	101439 - Custom Signa	Custom Signage	-	0.00	0.00	
101453	101453 - Traffic Signa	Traffic Signage	-	0.00	0.00	
101716	101716 - Telephone En	Telephone Enclosures	-	0.00	0.00	
101719	101719 - Telephone Sh	Telephone Shelving	-	0.00	0.00	
102113	102113 - Toilet Compart	Toilet Compartments	-	0.00	0.00	
102116	102116 - Shower and D	Shower and Dressing Compartments	40,000.00	0.34	275.86	
102213	102213 - Wire Mesh Part	Wire Mesh Partitions	-	0.00	0.00	
102216	102216 - Folding Gates	Folding Gates	-	0.00	0.00	
102219	102219 - Demountable	Demountable Partitions	-	0.00	0.00	
102223	102223 - Portable Part	Portable Partitions   Screens   Panels	-	0.00	0.00	
102226	102226 - Operable Part	Operable Partitions	-	0.00	0.00	
102240	102240 - Nano Wall	Nano Wall	-	0.00	0.00	
102599	102599 - Service Walls	Service Walls	-	0.00	0.00	
102613	102613 - Corner Guard	Corner Guards	-	0.00	0.00	
102616	102616 - Bumper Guard	Bumper Guards	-	0.00	0.00	
102633	102633 - Door and Fram	Door and Frame Protection	-	0.00	0.00	
102813	102813 - Toilet Access	Toilet Accessories	-	0.00	0.00	
102816	102816 - Bath Access	Bath Accessories	-	0.00	0.00	
102819	102819 - Tub and Show	Tub and Shower Doors	-	0.00	0.00	
103199	103199 - Manufactured	Manufactured Fireplaces	-	0.00	0.00	
103523	103523 - Cooking Stov	Cooking Stoves	-	0.00	0.00	
104313	104313 - Defibrillator C	Defibrillator Cabinets	-	0.00	0.00	
104316	104316 - First Aid Cab	First Aid Cabinets	-	0.00	0.00	
104413	104413 - Fire Extingu	Fire Extinguisher Cabinets	18,000.00	0.15	124.14	
104416	104416 - Fire Extingu	Fire Extinguishers	-	0.00	0.00	
105199	105199 - Lockers	Lockers	-	0.00	0.00	
105513	105513 - Central Mail	Central Mail Delivery Boxes	-	0.00	0.00	
105523	105523 - Mail Boxes	Mail Boxes	20,000.00	0.17	137.93	
105526	105526 - Parcel Lock	Parcel Lockers	-	0.00	0.00	
105591	105591 - Mail Chutes	Mail Chutes	-	0.00	0.00	
105616	105616 - Metal Storage	Metal Storage Shelving	-	0.00	0.00	
105617	105617 - Fabricated W	Fabricated Wood Storage Shelving	-	0.00	0.00	
105623	105623 - Wire Storage	Wire Storage Shelving	-	0.00	0.00	
105629	105629 - Storage Rack	Storage Racks	-	0.00	0.00	
105713	105713 - Hat and Coat	Hat and Coat Racks	-	0.00	0.00	
105723	105723 - Closet and Ut	Closet and Utility Shelving	-	0.00	0.00	
107113	107113 - Exterior Sun	Exterior Sun Control Devices	-	0.00	0.00	
107313	107313 - Awnings	Awnings	-	0.00	0.00	
107314	107314 - Metal Awning	Metal Awnings	-	0.00	0.00	
107315	107315 - Fabric Awning	Fabric Awnings	-	0.00	0.00	
107316	107316 - Canopies	Canopies	40,000.00	0.34	275.86	Porte Cochere - Steel
107323	107323 - Car Shelters	Car Shelters	-	0.00	0.00	
107326	107326 - Walkway Cov	Walkway Coverings	42,000.00	0.35	289.66	Pool Pergola
107423	107423 - Cupolas	Cupolas	-	0.00	0.00	
107426	107426 - Spires	Spires	-	0.00	0.00	
107433	107433 - Weathervane	Weathervanes	-	0.00	0.00	
107599	107599 - Flagpoles	Flagpoles	-	0.00	0.00	
108199	108199 - Pest Control	Pest Control Devices	-	0.00	0.00	



108299	108299 - Grilles and Screens	Grilles and Screens	25,000.00	0.21	172.41	BBQ & Fire Pit
108399	108399 - Flags and Banners	Flags and Banners	-	0.00	0.00	
108699	108699 - Security Mirrors and Domes	Security Mirrors and Domes	-	0.00	0.00	
<b>DIVISION 10 TOTAL</b>			<b>245,000.00</b>	<b>2.06</b>	<b>1,689.66</b>	
<b>DIVISION 11 - EQUIPMENT</b>						
111126	111126 - Vehicle Washing Equipment	Vehicle Washing Equipment	-	0.00	0.00	
111136	111136 - Electric Vehicle Charging Unit	Electric Vehicle Charging Unit	-	0.00	0.00	
111299	111299 - Parking Control Equipment	Parking Control Equipment	-	0.00	0.00	
111313	111313 - Loading Dock Bumpers	Loading Dock Bumpers	-	0.00	0.00	
111413	111413 - Pedestrian Gates	Pedestrian Gates	-	0.00	0.00	
111414	111414 - Bike Repair Equipment	Bike Repair Equip	-	0.00	0.00	
111613	111613 - Safe Deposit Boxes	Safe Deposit Boxes	-	0.00	0.00	
111616	111616 - Safes	Safes	-	0.00	0.00	
112123	112123 - Vending Equipment	Vending Equipment	-	0.00	0.00	
112399	112399 - Commercial Laundry and Dry Cleaning Equipment	Commercial Laundry and Dry Cleaning Equip.	-	0.00	0.00	
112413	112413 - Floor and Wall Cleaning Equipment	Floor and Wall Cleaning Equipment	-	0.00	0.00	
112419	112419 - Vacuum Cleaning Systems	Vacuum Cleaning Systems	-	0.00	0.00	
112423	112423 - Window Washing Systems	Window Washing Systems	-	0.00	0.00	
112699	112699 - Unit Kitchens	Unit Kitchens	-	0.00	0.00	
112899	112899 - Office Equipment	Office Equipment	-	0.00	0.00	
112955	112955 - Postal Equipment	Postal Equipment	-	0.00	0.00	
113113	113113 - Residential Kitchen Appliances	Residential Kitchen Appliances	257,066.03	2.16	1,772.87	Whirlpool
113123	113123 - Residential Laundry Appliances	Residential Laundry Appliances	-	0.00	0.00	Allowance
113133	113133 - Amenity Space Allowance	Amenity Space Allowance	-	0.00	0.00	
114799	114799 - Ice Machines	Ice Machines	-	0.00	0.00	
115213	115213 - Projection Screens	Projection Screens	-	0.00	0.00	
116113	116113 - Acoustical Shells	Acoustical Shells	-	0.00	0.00	
116133	116133 - Rigging Systems and Controls	Rigging Systems and Controls	-	0.00	0.00	
116599	116599 - Athletic and Recreational Equipment	Athletic and Recreational Equipment	-	0.00	0.00	
116613	116613 - Exercise Equipment	Exercise Equipment	-	0.00	0.00	
116614	116614 - Yoga Equipment	Yoga Equipment	-	0.00	0.00	
116623	116623 - Gymnasium Equipment	Gymnasium Equipment	-	0.00	0.00	
116653	116653 - Gymnasium Dividers	Gymnasium Dividers	-	0.00	0.00	
116743	116743 - Table Games Equipment	Table Games Equipment	-	0.00	0.00	
116813	116813 - Playground Equipment	Playground Equipment	-	0.00	0.00	
118219	118219 - Packaged Incinerators	Packaged Incinerators	-	0.00	0.00	
118226	118226 - Waste Compactors and Destructors	Waste Compactors and Destructors	-	0.00	0.00	
<b>DIVISION 11 TOTAL</b>			<b>257,066.03</b>	<b>2.16</b>	<b>1,772.87</b>	
<b>DIVISION 12 - FURNISHINGS</b>						
121099	121099 - Art	Art	-	0.00	0.00	
122113	122113 - Horizontal Louver Blinds	Horizontal Louver Blinds	40,000.00	0.34	275.86	
122116	122116 - Vertical Louver Blinds	Vertical Louver Blinds	-	0.00	0.00	
122299	122299 - Curtains and Drapes	Curtains and Drapes	-	0.00	0.00	
122399	122399 - Interior Shutters	Interior Shutters	-	0.00	0.00	
122499	122499 - Window Shades	Window Shades	-	0.00	0.00	
123299	123299 - Manufactured Wood Casework	Manufactured Wood Casework	-	0.00	0.00	
123530	123530 - Residential Casework	Residential Casework	-	0.00	0.00	
123553	123553 - Laboratory Casework	Laboratory Casework	-	0.00	0.00	
123559	123559 - Display Casework	Display Casework	-	0.00	0.00	
123613	123613 - Concrete Countertops	Concrete Countertops	-	0.00	0.00	
123616	123616 - Metal Countertops	Metal Countertops	-	0.00	0.00	
123619	123619 - Wood Countertops	Wood Countertops	-	0.00	0.00	
123623	123623 - Plastic Countertops	Plastic Countertops	-	0.00	0.00	
123640	123640 - Stone Countertops - Amenities	Stone Countertops - Amenities	15,000.00	0.13	103.45	Allowance
123661	123661 - Simulated Stone Countertops - Granite	Simulated Stone Countertops - Granite	261,000.00	2.19	1,800.00	
124199	124199 - Office Accessories	Office Accessories	-	0.00	0.00	
124813	124813 - Entrance Floor Mats and Frames	Entrance Floor Mats and Frames	-	0.00	0.00	
124816	124816 - Entrance Floor Grilles	Entrance Floor Grilles	-	0.00	0.00	
125199	125199 - Office Furniture	Office Furniture	-	0.00	0.00	
125816	125816 - Residential Chairs	Residential Chairs	-	0.00	0.00	
125829	125829 - Beds	Beds	-	0.00	0.00	
126199	126199 - Fixed Audience Seating	Fixed Audience Seating	-	0.00	0.00	
126399	126399 - Stadium and Arena Seating	Stadium and Arena Seating	-	0.00	0.00	
126699	126699 - Telescoping Stands	Telescoping Stands	-	0.00	0.00	
126799	126799 - Pews and Benches	Pews and Benches	-	0.00	0.00	
129299	129299 - Interior Plants	Interior Planters and Artificial Plants	-	0.00	0.00	
129313	129313 - Bicycle Racks	Bicycle Racks	-	0.00	0.00	
129323	129323 - Trash and Litter Receptors	Trash and Litter Receptors	120,000.00	1.01	827.59	
<b>DIVISION 12 TOTAL</b>			<b>436,000.00</b>	<b>3.66</b>	<b>3,006.90</b>	
<b>DIVISION 13 - SPECIAL CONSTRUCTION</b>						
131198	131198 - Swimming Pools	Swimming Pool	175,000.00	1.47	1,206.90	Pool, Deck & Equip
131199	131199 - Swimming Pool Fence	Swimming Pool Fence	-	0.00	0.00	
131299	131299 - Fountains	Fountains	-	0.00	0.00	
131399	131399 - Aquariums	Aquariums	-	0.00	0.00	
131799	131799 - Tubs and Pools	Tubs and Pools	-	0.00	0.00	
131919	131919 - Animal Washing Tubs	Animal Washing Tubs	-	0.00	0.00	
132416	132416 - Saunas	Saunas	-	0.00	0.00	
132426	132426 - Steam Baths	Steam Baths	-	0.00	0.00	
132799	132799 - Security Vaults	Security Vaults	-	0.00	0.00	
132899	132899 - Athletic and Recreational Special Construction	Athletic and Recreational Special Construction	-	0.00	0.00	
133113	133113 - Air-Supported Fabric Structures	Air-Supported Fabric Structures	-	0.00	0.00	
133133	133133 - Framed Fabric Structures	Framed Fabric Structures	-	0.00	0.00	
133299	133299 - Space Frames	Space Frames	-	0.00	0.00	
134899	134899 - Sound   Vibration   Seismic Control	Sound   Vibration   Seismic Control	-	0.00	0.00	
<b>DIVISION 13 TOTAL</b>			<b>175,000.00</b>	<b>1.47</b>	<b>1,206.90</b>	
<b>DIVISION 14 - CONVEYING SYSTEMS</b>						
140199	140199 - Operation and Maintenance of Conveying Equipment	Operation and Maint. of Conveying Equipment	-	0.00	0.00	
141099	141099 - Dumbwaiters	Dumbwaiters	-	0.00	0.00	
142113	142113 - Electric Traction Freight Elevators	Electric Traction Freight Elevators	-	0.00	0.00	
142123	142123 - Electric Traction Passenger Elevators	Electric Traction Passenger Elevators	-	0.00	0.00	
142413	142413 - Hydraulic Freight Elevators	Hydraulic Freight Elevators	-	0.00	0.00	
142423	142423 - Hydraulic Passenger Elevators	Hydraulic Passenger Elevators	205,000.00	1.72	1,413.79	Schindler
142813	142813 - Elevator Doors	Elevator Doors	-	0.00	0.00	
143199	143199 - Escalators	Escalators	-	0.00	0.00	
143299	143299 - Moving Walks	Moving Walks	-	0.00	0.00	
144119	144119 - Stairway Chairlifts	Stairway Chairlifts	-	0.00	0.00	
144513	144513 - Vehicle Service Lifts	Vehicle Service Lifts	-	0.00	0.00	
144600	144600 - Material Lifts	Material Lifts	-	0.00	0.00	
145299	145299 - Wheelchair Lifts	Wheelchair Lifts	-	0.00	0.00	
148316	148316 - Scissor Lift Platforms	Scissor Lift Platforms	-	0.00	0.00	
148499	148499 - Powered Scaffolding	Powered Scaffolding	-	0.00	0.00	
149133	149133 - Laundry and Linen Chutes	Laundry and Linen Chutes	-	0.00	0.00	
149182	149182 - Trash Chutes	Trash Chutes	-	0.00	0.00	
149299	149299 - Pneumatic Tube Systems	Pneumatic Tube Systems	-	0.00	0.00	

DIVISION 14 TOTAL		205,000.00	1.72	1,413.79
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**DIVISION 21 - FIRE SUPPRESSION**

211313	211313 - Wet Pipe Sprinkler	Wet Pipe Sprinkler Systems	615,000.00	5.17	4,241.38	NFPA 13R system
211316	211316 - Dry Pipe Sprinkler	Dry Pipe Sprinkler Systems	-	0.00	0.00	
212099	212099 - Fire Extinguishing	Fire Extinguishing Systems	-	0.00	0.00	
213113	213113 - Electric-Drive	Electric-Drive and Centrifugal Fire Pumps	-	0.00	0.00	
213116	213116 - Diesel-Drive	Diesel-Drive and Centrifugal Fire Pumps	-	0.00	0.00	
214199	214199 - Storage Tank	Storage Tanks for Fire Suppression Water	-	0.00	0.00	
DIVISION 21 TOTAL			615,000.00	5.17	4,241.38	

**DIVISION 22 - PLUMBING**

220799	220799 - Plumbing Instal	Plumbing Installation	980,000.00	8.24	6,758.62	
221113	221113 - Facility Water	Facility Water Distribution Piping	-	0.00	0.00	
221116	221116 - Domestic Wat	Domestic Water Piping	-	0.00	0.00	
221117	221117 - Gray-Water P	Gray-Water Piping	-	0.00	0.00	
221119	221119 - Gas Distribut	Gas Distribution Piping	-	0.00	0.00	
221299	221299 - Facility Potab	Facility Potable Water Storage Tanks	-	0.00	0.00	
221313	221313 - Facility Sanit	Facility Sanitary Sewers	-	0.00	0.00	
221326	221326 - Sanitary Wast	Sanitary Waste Separators	-	0.00	0.00	
221329	221329 - Sanitary Sew	Sanitary Sewerage Pumps	-	0.00	0.00	
221413	221413 - Facility Storm	Facility Storm Drainage Piping	-	0.00	0.00	
221419	221419 - Sump Pump D	Sump Pump Discharge Piping	-	0.00	0.00	
221426	221426 - Storm Drain	Storm Drainage Piping Specialties	-	0.00	0.00	
221429	221429 - Sump Pumps	Sump Pumps	-	0.00	0.00	
221463	221463 - Facility Storm	Facility Storm-Water Retention Tanks	-	0.00	0.00	
223199	223199 - Domestic Wat	Domestic Water Softeners	-	0.00	0.00	
223299	223299 - Domestic Wat	Domestic Water Filtration Equipment	-	0.00	0.00	
223399	223399 - Electric Domes	Electric Domestic Water Heaters	-	0.00	0.00	
223499	223499 - Fuel Fired D	Fuel Fired Domestic Water Heaters	-	0.00	0.00	
224199	224199 - Residential P	Residential Plumbing Fixtures	-	0.00	0.00	
224299	224299 - Commercial P	Commercial Plumbing Fixtures	-	0.00	0.00	
224799	224799 - Drinking Foun	Drinking Fountains and Water Coolers	-	0.00	0.00	
225199	225199 - Swimming Po	Swimming Pool Plumbing	-	0.00	0.00	
225299	225299 - Fountain Plum	Fountain Plumbing Systems	-	0.00	0.00	
DIVISION 22 TOTAL			980,000.00	8.24	6,758.62	

**DIVISION 23 - HEATING VENTILATION AND AIR CONDITIONING**

230548	230548 - Vibration Con	Vibration Controls for HVAC	-	0.00	0.00	
230593	230593 - Testing   Adj	Testing   Adjusting   Balancing for HVAC	-	0.00	0.00	
230799	230799 - HVAC Install	HVAC Installation	915,000.00	7.69	6,310.34	Non MWSBE subcontractor
230899	230899 - Commission	Commissioning of HVAC	-	0.00	0.00	
230923	230923 - Control Damp	Control Dampers	-	0.00	0.00	
230924	230924 - Energy Meter	Energy Meters	-	0.00	0.00	
230993	230993 - Building Auto	Building Automated Systems	-	0.00	0.00	
230999	230999 - Instrumentat	Instrumentation and Control for HVAC	-	0.00	0.00	
231199	231199 - Facility Fuel P	Facility Fuel Piping	-	0.00	0.00	
231299	231299 - Facility Fuel P	Facility Fuel Pumps	-	0.00	0.00	
231399	231399 - Facility Fuel S	Facility Fuel Storage Tanks	-	0.00	0.00	
232099	232099 - Hydronic Pip	Hydronic Piping and Pumps	-	0.00	0.00	
232299	232299 - Steam and Co	Steam and Condensate Piping	-	0.00	0.00	
232399	232399 - Refrigerant P	Refrigerant Piping	-	0.00	0.00	
232599	232599 - HVAC Water	HVAC Water Treatment	-	0.00	0.00	
233113	233113 - Metal Ducts	Metal Ducts	-	0.00	0.00	
233299	233299 - Air Plenums	Air Plenums and Chases	-	0.00	0.00	
233399	233399 - Air Duct Acc	Air Duct Accessories	-	0.00	0.00	
233499	233499 - HVAC Fans	HVAC Fans	-	0.00	0.00	
233599	233599 - Special Exhau	Special Exhaust Systems	-	0.00	0.00	
233616	233616 - Variable Air V	Variable Air Volume Units	-	0.00	0.00	
233799	233799 - Air Outlets an	Air Outlets and Inlets	-	0.00	0.00	
233813	233813 - Commercial K	Commercial Kitchen Hoods	-	0.00	0.00	
234399	234399 - Electronic Air	Electronic Air Cleaners	-	0.00	0.00	
235299	235299 - Heating Boile	Heating Boilers	-	0.00	0.00	
235499	235499 - Furnaces	Furnaces	-	0.00	0.00	
236299	236299 - Packaged Com	Packaged Compressor and Condenser Units	-	0.00	0.00	
236499	236499 - Packaged Wa	Packaged Water Chillers	-	0.00	0.00	
236599	236599 - Cooling Tow	Cooling Towers	-	0.00	0.00	
237416	237416 - Packaged Roo	Packaged Rooftop Air-Conditioning Units	-	0.00	0.00	
237499	237499 - Packaged Out	Packaged Outdoor HVAC Equipment	-	0.00	0.00	
237516	237516 - Custom-Pack	Custom-Packaged and Rooftop Air-Conditioning Unit	-	0.00	0.00	
238199	238199 - Decentralize	Decentralized Unitary HVAC Equipment	-	0.00	0.00	
238399	238399 - Radiant Heat	Radiant Heating Units	-	0.00	0.00	
238416	238416 - Dehumidifier	Dehumidifiers	-	0.00	0.00	
DIVISION 23 TOTAL			915,000.00	7.69	6,310.34	

**DIVISION 26 - ELECTRICAL**

260913	260913 - Electric Powe	Electric Power and Monitoring	-	0.00	0.00	
260914	260914 - Lightning Pro	Lightning Protection Systems	-	0.00	0.00	
260943	260943 - Network Ligh	Network Lighting Controls	-	0.00	0.00	
262099	262099 - Low-Voltage	Low-Voltage Electrical (struct wiring)	75,000.00	0.63	517.24	
262113	262113 - Low-Voltage	Low-Voltage Overhead Electrical Service Entrance	-	0.00	0.00	
262116	262116 - Low-Voltage	Low-Voltage Underground Electrical Service Entrance	-	0.00	0.00	
262199	262199 - Electrical Inst	Electrical Installation	1,082,000.00	9.09	7,462.07	Includes Generator
262213	262213 - Low-Voltage	Low-Voltage Distribution Transformers	-	0.00	0.00	
262299	262299 - Temporary El	Temporary Power	25,000.00	0.21	172.41	
262726	262726 - Wiring Device	Wiring Devices	-	0.00	0.00	
262733	262733 - Power Distrib	Power Distribution Units	-	0.00	0.00	
263299	263299 - Packaged Gen	Packaged Generator Assemblies	-	0.00	0.00	
263399	263399 - Battery Equip	Battery Equipment	-	0.00	0.00	
264113	264113 - Lightning Pro	Lightning Protection for Structures	-	0.00	0.00	
265113	265113 - Interior Ligh	Interior Lighting Fixtures	240,500.00	2.02	1,658.62	Allowance
265213	265213 - Exit Signs	Exit Signs	-	0.00	0.00	
265298	265298 - Temp Lightin	Temp Lighting	-	0.00	0.00	
265299	265299 - Emergency Li	Emergency Lighting (Fire Alarm)	-	0.00	0.00	
265568	265568 - Exterior Athle	Exterior Athletic Light	-	0.00	0.00	
265599	265599 - Special Purp	Special Purpose Lighting	-	0.00	0.00	
265600	265600 - Exterior Ligh	Exterior Lighting	-	0.00	0.00	
265613	265613 - Lighting Pole	Lighting Poles and Standards	-	0.00	0.00	
265616	265616 - Parking Ligh	Parking Lighting	-	0.00	0.00	
265626	265626 - Landscape Li	Landscape Lighting	-	0.00	0.00	
265629	265629 - Site Lightin	Site Lighting	-	0.00	0.00	
DIVISION 26 TOTAL			1,422,500.00	11.95	9,810.34	

**DIVISION 27 - COMMUNICATIONS**

270511	270511 - Cameras for	Cameras for Audio-Visual Systems	-	0.00	0.00	
270528	270528 - Pathways for	Pathways for Communications Systems	-	0.00	0.00	
270543	270543 - Underground	Underground Ducts and Raceways for Communicati	-	0.00	0.00	
270544	270544 - Sleeves and S	Sleeves and Sleeve Seals for Communications Path	-	0.00	0.00	

271399	271399 - Communicati	Communications Backbone Cabling	-	0.00	0.00	
271501	271501 - Radio Frequ	Radio Frequency Communications	-	0.00	0.00	
271699	271699 - Communicati	Communications Connections (microduct)	-	0.00	0.00	
272199	272199 - Data Commu	Data Communications Network Equipment	-	0.00	0.00	
272299	272299 - Data Commu	Data Communications Hardware	-	0.00	0.00	
272599	272599 - Data Commu	Data Communications Software	-	0.00	0.00	
272699	272699 - Data Commu	Data Communications Programming and Integration	-	0.00	0.00	
273099	273099 - Voice Commu	Voice Communications	62,000.00	0.52	427.59	Telecom Allowance
274199	274199 - Audio-Video	Audio-Video Systems	-	0.00	0.00	
275129	275129 - Emergency C	Emergency Communications Systems	-	0.00	0.00	
<b>DIVISION 27 TOTAL</b>			<b>62,000.00</b>	<b>0.52</b>	<b>427.59</b>	

**DIVISION 28 - ELECTRONIC SAFETY AND SECURITY**

280507	280507 - Solar Power	Solar Power	-	0.00	0.00	
280509	280509 - Surge Protect	Surge Protection for Electronic Safety and Security/c	-	0.00	0.00	
280599	280599 - Alarm Comm	Fire Alarm System	125,000.00	1.05	862.07	Code Compliant System
281399	281399 - Access Contr	Access Control	100,000.00	0.84	689.66	Allowance
282399	282399 - Video Surveill	Video Surveillance	-	0.00	0.00	
282699	282699 - Electronic Pe	Electronic Personal Pro	-	0.00	0.00	
283146	283146 - Smoke Detect	Smoke Detection Sensors	-	0.00	0.00	
283149	283149 - Carbon Monox	Carbon Monoxide Detection Sensors	-	0.00	0.00	
283399	283399 - Fuel Gas Det	Fuel Gas Detection and Alarm	-	0.00	0.00	
284099	284099 - Electronic Mo	Electronic Monitoring	130,000.00	1.09	896.55	
284721	284721 - Offsite traffic	Offsite traffic signal	-	0.00	0.00	
<b>DIVISION 28 TOTAL</b>			<b>355,000.00</b>	<b>2.98</b>	<b>2,448.28</b>	

**DIVISION 31 - EARTHWORK**

310999	310999 - Geo. Instrum	Geo. Instrumentation and Monit. of Earthwork	45,000.00	0.38	310.34	
311199	311199 - Clearing and	Clearing and Grubbing	-	0.00	0.00	
311299	311299 - Selective Clea	Selective Clearing	-	0.00	0.00	
311313	311313 - Turn Lane	Turn Lane	-	0.00	0.00	
311399	311399 - Selective Tre	Selective Tree and Shrubs	-	0.00	0.00	
311499	311499 - Earth Strippi	Earth Stripping and Stockpiling	-	0.00	0.00	
312113	312113 - Radon Mitigat	Radon Mitigation	-	0.00	0.00	
312116	312116 - Methane Mitig	Methane Mitigation	-	0.00	0.00	
312213	312213 - Rough Gradi	Rough Grading	-	0.00	0.00	
312216	312216 - Fine Grading	Fine Grading	-	0.00	0.00	
312219	312219 - Finish Gradi	Finish Grading	-	0.00	0.00	
312313	312313 - Subgrade Pre	Subgrade Preparation - Construction Staking	30,000.00	0.25	206.90	
312316	312316 - Excavation	Excavation	386,000.00	3.24	2,662.07	Included Moisture Condition ILO Select fill
312319	312319 - Dewatering	Dewatering	-	0.00	0.00	
312323	312323 - Fill	Fill	-	0.00	0.00	
312333	312333 - Trenching and	Trenching and Backfilling	-	0.00	0.00	
312399	312399 - Spoils Remov	Spoils Removal	-	0.00	0.00	
312499	312499 - Embankment	Embankments	-	0.00	0.00	
312513	312513 - Erosion Contr	Erosion Controls	-	0.00	0.00	
312553	312553 - Sedimentatio	Sedimentation Controls	25,000.00	0.21	172.41	
313116	313116 - Termite Contr	Termite Control	10,000.00	0.08	68.97	
313119	313119 - Vegetation Co	Vegetation Control	-	0.00	0.00	
313233	313233 - Shotcrete Soil	Shotcrete Soil Slope Stabilization	-	0.00	0.00	
313236	313236 - Soil Nailing	Soil Nailing	-	0.00	0.00	
313399	313399 - Rock Stabiliz	Rock Stabilization	-	0.00	0.00	
313499	313499 - Soil Reinforc	Soil Reinforcement	-	0.00	0.00	
313599	313599 - Slope Protect	Slope Protection	-	0.00	0.00	
313699	313699 - Gabions	Gabions	-	0.00	0.00	
313799	313799 - Riprap	Riprap	-	0.00	0.00	
314116	314116 - Sheet Piling	Sheet Piling	-	0.00	0.00	
314899	314899 - Underpinning	Underpinning	-	0.00	0.00	
315199	315199 - Anchor Tieba	Anchor Tiebacks	-	0.00	0.00	
316213	316213 - Concrete Pile	Concrete Piles	-	0.00	0.00	
316313	316313 - Bored and Aug	Bored and Augered Test Piles	-	0.00	0.00	
316316	316316 - Auger Cast Gr	Auger Cast Grout Piles	-	0.00	0.00	
316326	316326 - Drilled Caisso	Drilled Caissons	-	0.00	0.00	
316329	316329 - Drilled Concr	Drilled Concrete Piers	-	0.00	0.00	
316499	316499 - Caissons	Caissons	-	0.00	0.00	
316699	316699 - Special Found	Special Foundations	-	0.00	0.00	
316899	316899 - Foundation A	Foundation Anchors	-	0.00	0.00	
317099	317099 - Tunneling and	Tunneling and Mining	-	0.00	0.00	
<b>DIVISION 31 TOTAL</b>			<b>496,000.00</b>	<b>4.17</b>	<b>3,420.69</b>	

**DIVISION 32 - EXTERIOR IMPROVEMENTS**

321199	321199 - Base Course	Base Courses	-	0.00	0.00	
321216	321216 - Asphalt Pav	Asphalt Paving	-	0.00	0.00	
321219	321219 - Asphalt Pav	Asphalt Paving Wearing Courses	-	0.00	0.00	
321236	321236 - Seal Coat	Seal Coats	-	0.00	0.00	
321313	321313 - Concrete Pav	Concrete Paving	370,000.00	3.11	2,551.72	
321413	321413 - Precast Con	Precast Concrete Unit Paving	-	0.00	0.00	
321416	321416 - Brick Unit Pav	Brick Unit Paving	-	0.00	0.00	
321619	321619 - Asphalt Curb	Asphalt Curbs	-	0.00	0.00	
321713	321713 - Parking Bum	Parking Bumpers	-	0.00	0.00	
321723	321723 - Pavement Mark	Pavement Markings	15,000.00	0.13	103.45	
321816	321816 - Synthetic Ras	Synthetic Resilient Surfacing	-	0.00	0.00	
321823	321823 - Athletic Surf	Athletic Surfacing	-	0.00	0.00	
321826	321826 - Sidewalks	Sidewalks	170,500.00	1.43	1,175.86	
321829	321829 - Misc Sitewo	Misc Sitework Concrete	-	0.00	0.00	
323113	323113 - Chain Link F	Chain Link Fences and Gates	40,000.00	0.34	275.86	
323119	323119 - Decorative M	Decorative Metal Fences and Gates	-	0.00	0.00	
323129	323129 - Wood Fences	Wood Fences and Gates	-	0.00	0.00	
323213	323213 - Cast-in-Place	Cast-in-Place Concrete Retaining Walls	-	0.00	0.00	
323216	323216 - Precast Con	Precast Concrete Retaining Walls	-	0.00	0.00	
323219	323219 - Unit Masonr	Unit Masonry Retaining Walls	-	0.00	0.00	
323229	323229 - Timber Retai	Timber Retaining Walls	-	0.00	0.00	
323234	323234 - Reinforced So	Reinforced Soil Retaining Walls	-	0.00	0.00	
323499	323499 - Fabricated Br	Fabricated Bridges	-	0.00	0.00	
323599	323599 - Screening De	Screening Devices	-	0.00	0.00	
327299	327299 - Wetlands Res	Wetlands Restoration	-	0.00	0.00	
328299	328299 - Irrigation Pum	Irrigation Pumps	-	0.00	0.00	
328499	328499 - Planting Irrig	Planting Irrigation	-	0.00	0.00	
329119	329119 - Landscape G	Landscape Grading	-	0.00	0.00	
329213	329213 - Hydro-Mulchi	Hydro-Mulching	-	0.00	0.00	
329219	329219 - Seeding	Seeding	-	0.00	0.00	
329223	329223 - Sodding	Sodding	-	0.00	0.00	
329313	329313 - Ground Cover	Ground Covers	-	0.00	0.00	
329323	329323 - Plants and Bul	Plants and Bulbs	175,000.00	1.47	1,206.90	Irrigation Carried as Allowance \$40k
329333	329333 - Shrubs	Shrubs	-	0.00	0.00	
329343	329343 - Trees	Trees	-	0.00	0.00	
329413	329413 - Landscape Ed	Landscape Edging	-	0.00	0.00	
329416	329416 - Landscape Ti	Landscape Timbers	-	0.00	0.00	
329433	329433 - Planters	Planters	-	0.00	0.00	
329443	329443 - Tree Grates	Tree Grates	-	0.00	0.00	
329446	329446 - Tree Grids	Tree Grids	-	0.00	0.00	

329643	329643 - Tree Transplant	Tree Transplanting	-	0.00	0.00	
<b>DIVISION 32 TOTAL</b>			<b>770,500.00</b>	<b>6.48</b>	<b>5,313.79</b>	
<b>DIVISION 33 - UTILITIES</b>						
330000	330000 - Offsite utilities	Offsite utilities	-	0.00	0.00	
331111	331111 - Test Well	Test Well	-	0.00	0.00	
331113	331113 - Public Water	Public Water Utility Distribution Piping	120,000.00	1.01	827.59	Off-Site Carried as Allowance
331116	331116 - Site Water Utility	Site Water Utility Distribution Piping	-	0.00	0.00	
331119	331119 - Fire Suppression	Fire Suppression Utility Water Distr. Piping	-	0.00	0.00	
331299	331299 - Water Utility Distribution	Water Utility Distribution Equipment	-	0.00	0.00	
331399	331399 - Disinfecting	Disinfecting of Water Utility Distribution	-	0.00	0.00	
331699	331699 - Water Utility Storage	Water Utility Storage Tanks	-	0.00	0.00	
332113	332113 - Public Water	Public Water Supply Wells	-	0.00	0.00	
332116	332116 - Irrigation Water	Irrigation Water Wells	-	0.00	0.00	
332499	332499 - Monitoring Wells	Monitoring Wells	-	0.00	0.00	
332999	332999 - Well Abandonment	Well Abandonment	-	0.00	0.00	
333299	333299 - Wastewater Utility	Wastewater Utility Pumping Stations	-	0.00	0.00	
333999	333999 - Sanitary Utility	Sanitary Utility Sewerage Structures	45,000.00	0.38	310.34	
334113	334113 - Public Storm	Public Storm Utility Drainage Piping	1,505,000.00	12.65	10,379.31	Allowance
334299	334299 - Culverts	Culverts	-	0.00	0.00	
334499	334499 - Storm Utility	Storm Utility Water Drains	-	0.00	0.00	
334599	334599 - Storm Utility	Storm Utility Drainage Pumps	-	0.00	0.00	
334613	334613 - Foundation Drainage	Foundation Drainage	40,000.00	0.34	275.86	
334619	334619 - Underlab Drainage	Underlab Drainage	-	0.00	0.00	
334633	334633 - Retaining Wall	Retaining Wall Drainage	-	0.00	0.00	
334726	334726 - Storm Drainage	Storm Drainage Ponds and Reservoirs	-	0.00	0.00	
335199	335199 - Natural Gas Distribution	Natural Gas Distribution	-	0.00	0.00	
335219	335219 - Diesel Fuel Distribution	Diesel Fuel Distribution	-	0.00	0.00	
335613	335613 - Aboveground Fuel Storage	Aboveground Fuel Storage Tanks	-	0.00	0.00	
335616	335616 - Underground Fuel Storage	Underground Fuel Storage Tanks	-	0.00	0.00	
337116	337116 - Electrical Utility	Electrical Utility Poles	-	0.00	0.00	
337119	337119 - Electrical Underground	Electrical Underground	-	0.00	0.00	
337198	337198 - Road Crossing and Bores	Road Crossing and Bores	-	0.00	0.00	
337199	337199 - Joint Trench	Joint Trench	-	0.00	0.00	
337999	337999 - Site Grounding	Site Grounding	-	0.00	0.00	
338299	338299 - Communications	Communications Distribution	-	0.00	0.00	
<b>DIVISION 33 TOTAL</b>			<b>1,710,000.00</b>	<b>14.37</b>	<b>11,793.10</b>	
<b>DIVISION 41 - MATERIAL PROCESSING AND HANDLING EQUIPMENT</b>						
411123	411123 - Bulk Material	Bulk Material Crushers	-	0.00	0.00	
411149	411149 - Bulk Material	Bulk Material Screens	-	0.00	0.00	
411499	411499 - Batching Equipment	Batching Equipment	-	0.00	0.00	
412213	412213 - Cranes	Cranes	-	0.00	0.00	
412223	412223 - Hoists	Hoists	-	0.00	0.00	
412326	412326 - Slings	Slings	-	0.00	0.00	
412399	412399 - Fork Lifts	Fork Lifts	35,000.00	0.29	241.38	
413199	413199 - Manufacturing Lines and Equipment	Manufacturing Lines and Equipment	-	0.00	0.00	
413446	413446 - Grinding Equipment	Grinding Equipment	-	0.00	0.00	
414099	414099 - Container Processing and Packaging	Container Processing and Packaging	-	0.00	0.00	
415213	415213 - Bins and Hoppers	Bins and Hoppers	-	0.00	0.00	
416299	416299 - Trucks	Trucks	-	0.00	0.00	
416399	416399 - General Vehicles	General Vehicles	-	0.00	0.00	
416516	416516 - Mobile Generators	Mobile Generators	-	0.00	0.00	
<b>DIVISION 41 TOTAL</b>			<b>35,000.00</b>	<b>0.29</b>	<b>241.38</b>	
<b>TOTAL HARD COST</b>			<b>21,411,862.63</b>	<b>179.95</b>	<b>147,668.02</b>	
<b>DIVISION 49 - GENERAL REQUIREMENTS</b>						
490007	490007 - Legal Fees	Legal Fees	10,000.00	0.08	68.97	
490107	490107 - General Liability	General Liability	351,000.00	2.95	2,420.69	
490108	490108 - General Contractors	General Contractors General Liability	-	0.00	0.00	
490117	490117 - Subguard	Subguard	-	0.00	0.00	
490127	490127 - Bonds	Bonds	217,908.63	1.83	1,502.82	PROVIDED BY OWNER
490128	490128 - Bonds for General Contractor	Bonds for General Contractor	-	0.00	0.00	
490207	490207 - Sales Tax	Sales Tax	-	0.00	0.00	
490307	490307 - Contingency	GC Overhead	-	0.00	0.00	
490407	490407 - Camden GC Fees	Camden GC Fees	1,122,447.33	9.43	7,741.02	
490507	490507 - Owner's Contingency	Owner's Contingency	-	0.00	0.00	
490508	490508 - General Contractors	General Contractors Contingency	-	0.00	0.00	
490607	490607 - General Contractors	General Contractors Fees	-	0.00	0.00	
490707	490707 - Add Camden	Add Camden GC Fees	-	0.00	0.00	
490807	490807 - Rebates	Rebates	-	0.00	0.00	
491107	491107 - Expeditor / Compliance	Expeditor / Compliance	-	0.00	0.00	PROVIDED BY OWNER
491207	491207 - Build Out Allowance	PROCORE	18,000.00	0.15	124.14	
491307	491307 - GC Overhead	GC Overhead	440,175.43	3.70	3,035.69	
<b>ESCALATION</b>						
<b>DIVISION 49 TOTAL</b>			<b>2,159,531.39</b>	<b>18.15</b>	<b>14,893.32</b>	
<b>TOTAL HARD COST</b>			<b>23,571,394.02</b>	<b>198.09</b>	<b>162,561.34</b>	

# INVESTOR SUPPORT FOR ADDITIONAL CREDITS

**From:** [Ellinger, Rob](#)  
**To:** [Janine Sisak](#)  
**Cc:** [Kierce, Daniel](#); "[Dan Miller](#)"; [Mark Gilbert](#)  
**Subject:** Ella Grand - Additional TDHCA Credit Award  
**Date:** Wednesday, January 26, 2022 12:07:20 PM

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Janine, per your request I am writing you regarding our interest in the additional LIHTC for this project. RBC and the Developer/s entered into a Letter of Intent dated 9/23/2021 for the purchase of the tax credits for the Ella Grand Project in Houston, Texas. The agreed upon purchase price was \$0.95 for a total investment of \$14,248,575. That LOI capped the purchase of any additional credits to a total of 5% of the equity investment or \$712,429 in additional equity. Per our recent conversations we understand that the Developer/s are applying for an additional credit award of \$225,000 annually or \$1,725,000 in total annual credits which would exceed this 5% threshold. RBC agrees to purchase these additional credits at a price of \$0.88 per credit assuming the additional equity is paid pro-rata with the original LOI pay in schedule. The blended price per credit pricing is \$0.9409 for a total equity investment of \$16,228,377. RBC reserves the right to further evaluate pricing after review of updated development costs and determination of the equity pay in schedule.

Please let me know if there are any questions

**Rob Ellinger | Investment Manager**

**RBC Capital Markets | RBC Community Investments**  
6805 Morrison Blvd, Suite 100, Charlotte, NC 28211  
(Office) 980-233-6452 | (Fax) 980-233-6501

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**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for La Grange Springs (#20273) in La Grange.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of La Grange Springs (the Development) was approved by the Board in July 2020, for the construction of 72 multifamily units in La Grange, Fayette County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 9% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for La Grange Springs is approved.

**BACKGROUND**

La Grange Springs is a 2020 competitive HTC award of \$883,142, which proposed the construction of 72 multifamily units serving the general population in La Grange, Fayette County. Of the 72 units, 8 are market-rate and 64 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, La Grange Springs is more than 50% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional

supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for La Grange Springs. The request details the difficulties and cost increases that the applicant has encountered during construction.

Based on the original award amount of \$883,142, the allowable limit for the supplemental request is \$61,819.94; however, updated financial documents submitted by the applicant indicate that an additional award of \$79,482.78, or 9% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.



20273

La Grange Springs

Supplement Credits  
Application

La Grange Springs LP  
Jeff Beaver  
404 E. McKinney Avenue  
Albertville, AL  
(256) 878-6054

# *La Grange Springs, LP*

404 E. McKinney Avenue • Albertville, AL 35950 • Telephone (256) 572-2208  
Email [jeff@olympiaconstruction.net](mailto:jeff@olympiaconstruction.net)

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January 26, 2022

Mr. Cody Campbell  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
P O Box 13941  
Austin, TX 78711

## **Re: Application 20273 La Grange Springs**

Dear Mr. Campbell:

The La Grange Springs, LP (the “Applicant”) for the above referenced development requests a waiver of the rules under §11.207 of the Qualified Allocation Plan (the “QAP”).

According to §11.1003 of the QAP, the maximum credit available for 2022 supplemental credits will be \$5,000,000 in total and a maximum seven (7%) percent of the original award for each application. Additionally, §11.1005(c)(1) of the QAP states the supplemental credits will be consistent with the regional allocation formula and the Department will initially make available not less than \$40,000 in each subregion.

The La Grange Springs development is located in subregion seven (7), which has an initial available limit of \$40,000 in annual credits. The Applicant submitted evidence and a request for the maximum of seven (7%) percent which was \$61,820; however, the maximum request is over the \$40,000 available in the subregion.

Subsequent to the January 2022 board meeting, the Applicant received an email communication from staff requesting the Applicant’s intent to submit a waiver request for the supplemental credits. The Applicant submitted their intent to submit this waiver by the requested deadline.

The Applicant is requesting an increase from seven (7%) percent to nine (9%) percent and is requesting to waive the amount available in the subregion to allow the Applicant to receive the increased cost percentage

The documentation for the increased costs is submitted with this request. The development is over fifty (50%) percent complete at the date of this letter. As a reminder, this development was also a “readiness to proceed” development so the Applicant/Owner was required to close and begin construction by November 30, 2020, prior to construction costs increasing completely out of control.

In accordance with the rules, the granting of this waiver will better serve the policies and purposes of the Department by assisting the development to continue construction and allow the development to continue to be financially feasible going forward.

Yours truly,

La Grange Springs 2020, LP

By: La Grange Springs GP, LLC  
By: Arx Housing Initiatives, LLC  
Its: General Partner



By: \_\_\_\_\_  
Robbye G. Meyer



# 2022 Supplemental Credit Request

# Tab 2

## **Application Information**

**Original Application and Contact Information**

**Original Application Information**

<u>20273</u> Original Application Number	<u>2020</u> Year of Award	<u>La Grange Springs</u> Development Name	<input type="checkbox"/> At-Risk	<input type="checkbox"/> USDA	Mark "X" to select the Set-aside associated with the original Application (if applicable).
---	------------------------------	--	-------------------------------------	----------------------------------	--

**Development Site Information**

<u>NEC of Hwy 77 and CR 2145</u> Address			<u>La Grange</u> City		
<u>7</u> Region	<u>78945</u> Zip	<u>Fayette</u> County	<input type="checkbox"/> Urban	<input checked="" type="checkbox"/> Rural	Mark "X" to select the rural/urban designation associated with the original Application.

**Supplemental Credit Request Information**

<u>\$ 79,482.78</u> Supplemental Credit Request Amount	<u>\$ 883,142.00</u> Original Application Award Amount	<u>\$ 61,819.94</u> Maximum Possible Supplemental Request	Supplemental Allocations are limited to the increase in eligible cost. Supplemental Allocations will not apply to costs that were excluded from the basis in the original Application. An Applicant may not request more than 7% more credits than their Original allocation.
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**Requester Contact Information**

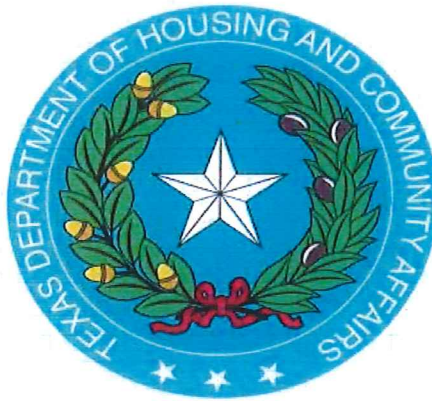
<u>Jeff Beaver</u> Name	<input type="text"/> Office Phone	
<u>jeff@olympiaconstruction.net</u> Email Address	<input type="text"/> Mobile Phone	
<b>Mailing Address:</b> <u>404 E. McKinney Avenue</u> Street		
<u>Albertville</u> City	<u>AL</u> State	<u>35950</u> ZIP

**Consultant Contact Information (if applicable)**

<u>Robbye Meyer</u> Name	<u>(512)963-2555</u> Office Phone	
<u>robbye@arxadvantage.net</u> Email Address	<input type="text"/> Mobile Phone	
<b>Mailing Address:</b> <u>1305 Dusky Thrush Trail</u> Street		
<u>Austin</u> City	<u>TX</u> State	<u>78746</u> ZIP

# Tab 3

## **Certifications**



2022 Supplemental Credit Request | Certifications

The Requester certifies to the following (Requester must INITIAL each that applies):

JB

There has been no change to the Applicant Eligibility or Original Owner Certification since the Original Application was submitted.

JB

There have been no changes from the Original Application that would require additional disclosure or mitigation, or render the proposed Development Site ineligible. Any change must be addressed under the requirements of §10.405 (relating to Amendments and Extensions).

JB

There has been no change to Site Control, other than extensions or purchase by the Requester, since the Original Application was submitted. If the nature of Site Control has changed, the Requester of Supplemental Credits must submit the appropriate documentation as described in §11.204(10) of the 2022 QAP.

JB

There has been no change to the zoning status of the Development since the Original Application. If the zoning status of the Development has changed, the Requester of Supplemental Credits must include all requirements of §11.204(11) of the 2022 QAP.

JB

The development has not placed in service.

By signing in the yellow box below, the Requester certifies the information provided on and in connection with this Form is true and correct to the best of their knowledge.

Requester Printed Name

Jeff Beaver

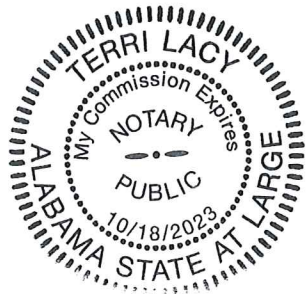
Requester Signature

Jeff Beaver

Sworn to and subscribed before me on the 26 day of

January, 2022  
by Jeff Beaver

(Personalized Seal)



Terri Lacy

Notary Public Signature

Alabama

Notary Public, State of

Marshall

County of

10-18-2023

My Commission Expires:

01-26-2022

Date





## **2022 Supplemental Credit Request | Financing Requirements Instructions**

**Pursuant to 10 TAC §11.1007(3), Supplemental Credit Applications must include updated exhibits and supporting information required under §11.204(7) of this chapter (relating to Required Documentation for Application Submission), along with construction contracts or contractor bids with a detailed schedule of values to support the Development Cost Schedule. The Financing Narrative should describe changes to the financial structure of the Supplemental Credit Application since the Original Application was submitted. Applicants should utilize 2021 rents in their updated exhibits; any resulting changes to operating expenses must include an explanation and rationale for the changes. Requests must include evidence from the Applicant's equity investor that the additional credits will be purchased and state the dollar value associated with that purchase. Eligible cost increases are not limited to construction costs, however, all cost increases must be substantiated. Supplemental Credit Applications that include Rehabilitation or Adaptive Reuse activities must include a letter from the Original Application Scope and Cost Review provider certifying that the scope of the project has not changed from the Original Application; the Development Cost Schedule must be supported by either: (A) construction contracts or labor bids; or (B) an updated Scope and Cost Review Supplement.**

# Tab 4b

## Rent Schedule



**Rent Schedule (Continued)**

		% of LI	% of Total	
<b>HOUSING TAX CREDITS</b>	TC20%			0
	TC30%	8%	7%	5
	TC40%			0
	TC50%	20%	18%	13
	TC60%	72%	64%	46
	TC70%			0
	TC80%			0
	<b>HTC LI Total</b>			<b>64</b>
	EO			0
	MR	13%	11%	8
<b>MR Total</b>		<b>11%</b>	<b>8</b>	
<b>Total HTC Units</b>				<b>72</b>
<b>DIRECT LOAN (NHTF)</b>	HTF30%			0
	<b>NHTF LI Total</b>			<b>0</b>
	MR			0
	<b>MR Total</b>			<b>0</b>
	<b>HTF Total</b>			<b>0</b>

		% of LI	% of Total	
<b>MORTGAGE REVENUE BOND</b>	MRB20%			0
	MRB30%			0
	MRB40%			0
	MRB50%			0
	MRB60%			0
	MRB70%			0
	MRB80%			0
	<b>MRB LI Total</b>			<b>0</b>
	MRBMR			0
	<b>MRBMR Total</b>			<b>0</b>
<b>MRB Total</b>			<b>0</b>	
<b>DIRECT LOAN (HOME, TCAP RF, and/or NSP1 PI)</b>	30%			0
	40%			0
	LH/50%			0
	HH/60%			0
	HH/80%			0
	<b>Direct Loan LI Total</b>			<b>0</b>
				0
	<b>Direct Loan Total</b>			<b>0</b>
	<b>OTHER</b>			<b>0</b>
	<b>Total OT Units</b>			

<b>BEDROOMS</b>	0			0
	1			12
	2			44
	3			16
	4			0
	5			0

<b>ACQUISITION + HARD</b>		DO NOT USE THIS CALCULATION TO SCORE POINTS UNDER 11.9(e)(2). At the end of the Development Cost
<b>Cost Per Sq. Ft</b>	\$115.51	
<b>HARD</b>		Schedule, you will have the ability to adjust your eligible costs to qualify.
<b>Cost Per Sq. Ft</b>	\$115.51	
<b>BUILDING</b>		Points will be entered there.
<b>Cost Per Sq. Ft</b>	\$ 82.10	

<b>AVERAGE INCOME DISTRIBUTION TOOL</b>			
---	--	--	--

Total LI Units		Number of 30% Units used for 30% Boost (9% Only)	
<b>Number of LI Units to be</b>	<b>0</b>	AMFI Average Committed to for Points (9% Only)	
Development AMFI Average	<b>0</b>	Average will not calculate unless a number is entered for boost Units (even if it is zero) and the table below is completed.	

	AMFI Brackets							Total Units by Unit Type (# of Bedrooms)
	20	30	40	50	60	70	80	
Unit Type (Number of Bedrooms)	30% Units entered must be reduced by the number of Units used for 30% boost. (9% Only)							
0								0
1								0
2								0
3								0
4								0
5								0
<b>Total Units</b>	0	0	0	0	0	0	0	<b><u>0</u></b>

This form has an inconsistency of	<b><u>0</u></b>	Units
-----------------------------------	-----------------	-------

Are you missing Units? Do you have too many?

If average income is elected, 20%, 30%, 40%, 50%, 60%, 70% and 80% Unit designations **MUST** be dispersed across all Unit Types in a manner that does not violate fair housing laws.

# Tab 4d

## **Annual Operating Expenses**

**DRAFT**

ANNUAL OPERATING EXPENSES			
<b>General &amp; Administrative Expenses</b>			
Accounting	\$	6,500	
Advertising	\$	2,700	
Legal fees	\$	3,500	
Leased equipment	\$		
Postage & office supplies	\$	3,080	
Telephone	\$	2,000	
Other	\$	2,200	
Other	\$	2,200	
Total General & Administrative Expenses:			\$ 22,180
Management Fee:	Percent of Effective Gross Income:	6.03%	\$ 40,915
<b>Payroll, Payroll Tax &amp; Employee Benefits</b>			
Management	\$	31,200	
Maintenance	\$	31,200	
Other	\$	10,820	
Other	\$		
Total Payroll, Payroll Tax & Employee Benefits:			\$ 73,220
<b>Repairs &amp; Maintenance</b>			
Elevator	\$		
Exterminating	\$	6,000	
Grounds	\$	9,000	
Make-ready	\$	6,000	
Repairs	\$	44,700	
Pool	\$		
Other	\$		
Other	\$		
Total Repairs & Maintenance:			\$ 65,700
<b>Utilities (Enter Only Property Paid Expense)</b>			
Electric	\$	13,787	
Natural gas	\$		
Trash	\$	7,200	
Water/Sewer	\$	44,400	
Other	\$		
Other	\$		
Total Utilities:			\$ 65,387
Annual Property Insurance:	Rate per net rentable square foot:	\$ 0.32	\$ 25,540
<b>Property Taxes:</b>			
Published Capitalization Rate: _____ Source: _____			
Annual Property Taxes	\$	68,800	
Payments in Lieu of Taxes	\$		
Total Property Taxes:			\$ 68,800
Reserve for Replacements:	Annual reserves per unit:	\$ 300	\$ 21,600
<b>Other Expenses</b>			
Cable TV	\$	1,800	
Supportive Services (Staffing/Contracted Services)	\$	1,200	
TDHCA Compliance fees (\$40/HTC unit)	\$	2,880	
TDHCA Direct Loan Compliance Fees (\$34/MDL unit)	\$		
TDHCA Bond Compliance Fees (TDHCA as Bond Issuer Only - \$25/MRB unit)	\$		
Bond Trustee Fees (ALL Tax-Exempt Bond Developments; entry or explanation required)	\$		
Issuer Ongoing Compliance Fees (entry or explanation required)	\$		
Security	\$		
Other	\$	12,156	
Other	\$	1,000	
Total Other Expenses:			\$ 19,036
<b>TOTAL ANNUAL EXPENSES</b>		Expense per unit: \$ 5589	\$ 402,378
		Expense to Income Ratio: <b>59.33%</b>	
<b>NET OPERATING INCOME (before debt service)</b>			\$ 275,876
<b>Annual Debt Service</b>			
	\$	194,862	
	\$	21,400	
	\$		
	\$		
	\$		
<b>TOTAL ANNUAL DEBT SERVICE</b>			\$ 216,262
		Debt Coverage Ratio: 1.276	
<b>NET CASH FLOW</b>			\$ 59,614

If a revised form is submitted, date of submission:

12/9/2021

3:34 PM

# La Grange Springs, LP

404 E. McKinney Avenue • Albertville, AL 35950 • Telephone (256) 572-2208  
Email tobutch51@yahoo.com

---

December 9, 2021

Mr. Cody Campbell  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
P O Box 13941  
Austin, TX 78711

## **Re: Application 20273 La Grange Springs**

Dear Mr. Campbell:

This letter is to explain the increases in operating expenses from the original application. The expenses presented in the original application were estimated at the time. Since the original submission, the applicant placed in service in January 2021 another development in Caldwell, Texas with same the construction, floorplans, elevations, etc... The operating expenses have been updated to reflect the operating expense increase that has been experienced with that development. The property taxes were calculated at original application with the assistance of Fayette County; however, they were estimated low. The appraiser at closing estimated them to be between \$57k and \$85k. the applicant is compromising in the middle and hoping the final result will be less.

Yours truly,

La Grange Springs 2020, LP

By: La Grange Springs GP, LLC  
By: Arx Housing Initiatives, LLC  
Its: General Partner



By: \_\_\_\_\_  
Robbye G. Meyer



# Tab 4e

**Proforma**

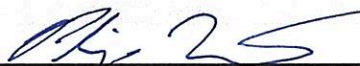
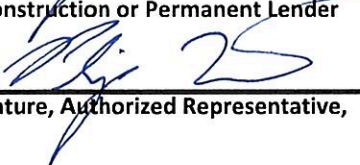


## 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$721,188	\$735,612	\$750,324	\$765,330	\$780,637	\$861,886	\$951,592
Secondary Income	\$ 12,060	\$ 12,301	\$ 12,547	\$ 12,798	\$ 13,054	\$ 14,413	\$ 15,913
POTENTIAL GROSS ANNUAL INCOME	\$733,248	\$747,913	\$762,871	\$778,129	\$793,691	\$876,299	\$967,505
Provision for Vacancy & Collection Loss	(\$54,994)	(\$56,093)	(\$57,215)	(\$58,360)	(\$59,527)	(\$65,722)	(\$72,563)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$678,254	\$691,819	\$705,656	\$719,769	\$734,164	\$810,577	\$894,942
EXPENSES							
General & Administrative Expenses	\$22,180	\$22,845	\$23,531	\$24,237	\$24,964	\$28,940	\$33,549
Management Fee	\$ 40,915	\$ 41,733	\$ 42,568	\$ 43,419	\$ 44,288	\$ 48,897	\$ 53,986
Payroll, Payroll Tax & Employee Benefits	\$ 73,220	\$ 75,417	\$ 77,679	\$ 80,009	\$ 82,410	\$ 95,535	\$ 110,752
Repairs & Maintenance	\$ 65,700	\$ 67,671	\$ 69,701	\$ 71,792	\$ 73,946	\$ 85,724	\$ 99,377
Electric & Gas Utilities	\$ 13,787	\$ 14,201	\$ 14,627	\$ 15,065	\$ 15,517	\$ 17,989	\$ 20,854
Water, Sewer & Trash Utilities	\$ 51,600	\$ 53,148	\$ 54,742	\$ 56,385	\$ 58,076	\$ 67,326	\$ 78,050
Annual Property Insurance Premiums	\$ 25,540	\$ 26,306	\$ 27,095	\$ 27,908	\$ 28,745	\$ 33,324	\$ 38,632
Property Tax	\$ 68,800	\$ 70,864	\$ 72,990	\$ 75,180	\$ 77,435	\$ 89,768	\$ 104,066
Reserve for Replacements	\$ 21,600	\$ 22,248	\$ 22,915	\$ 23,603	\$ 24,311	\$ 28,183	\$ 32,672
Other Expenses	\$ 19,036	\$ 19,607	\$ 20,195	\$ 20,801	\$ 21,425	\$ 24,838	\$ 28,794
TOTAL ANNUAL EXPENSES	\$402,378	\$414,040	\$426,044	\$438,400	\$451,118	\$520,524	\$600,732
NET OPERATING INCOME	\$275,876	\$277,779	\$279,612	\$281,369	\$283,047	\$290,052	\$294,211
DEBT SERVICE							
First Deed of Trust Annual Loan Payment	\$194,862	\$194,862	\$194,862	\$194,862	\$194,862	\$194,862	\$194,862
Second Deed of Trust Annual Loan Payment	21,400	21,400	21,400	21,400	21,400	21,400	21,400
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
ANNUAL NET CASH FLOW	\$59,614	\$61,517	\$63,350	\$65,107	\$66,785	\$73,790	\$77,949
CUMULATIVE NET CASH FLOW	\$59,614	\$121,132	\$184,482	\$249,589	\$316,374	\$667,812	\$1,047,159
Debt Coverage Ratio	1.28	1.28	1.29	1.30	1.31	1.34	1.36
Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

  
 Signature, Authorized Representative,  
 Construction or Permanent Lender  
  
 Signature, Authorized Representative,

Phillip Mullins  
 Printed Name  
 12/9/2021  
 Date  
 Phillip Mullins  
 Printed Name

Phone: 205-535-5954  
 Email: phillip.mullins@regions.com  
 12/9/2021  
 Date

If a revised form is submitted, date of submission:

12/10/2021

# Tab 4f

**Offsite Costs**

**Not Applicable**



# Tab 4g

## Site Work Costs

**Site Work Cost Breakdown**

This form must be submitted with the Development Cost Schedule as justification of Site Work costs.

**Column A:** The Site Work activity reflected here must match the Site Work activity reflected in the Development Cost Schedule.

**Columns B and C:** In determining actual construction cost, two different methods may be used:

The construction costs may be broken into labor (Column B) and materials (Column C) for the activity; **OR**

The use of unit price (Column B) and the number of units (Column C) data for the activity.

**Column D:** To arrive at total construction costs in Column D:

If based on labor and materials, add Column B and Column C together to arrive at total construction costs.

If based on unit price measures, Column B is multiplied by Column C to arrive at total construction costs.

**Column E:** Any proposed activity involving the acquisition of real property, easements, rights-of-way, etc., must have the projected costs of this acquisition for the activity.

**Column F:** Engineering/architectural costs must be broken out by the Site Work activity.

**Column G:** Figures for Column G, Total Activity Cost, are obtained by adding together Columns D, E, and F to get the total costs.

**\*\*This form must be completed by a Third-Party engineer licensed to practice in the State of Texas. His or her signature and registration seal must be on the form.\*\***

**For Site Work costs that exceed \$15,000 per Unit and are included in Eligible Basis, a CPA letter allocating which portions of those site costs should be included in Eligible Basis and which ones may be ineligible must be submitted behind this tab.**

A. Activity	B. Labor or Unit Price	C. Materials or # of Units	D. Total Construction Costs	F. Engineering / Architectural Costs	G. Total Activity Costs
Demolition					
Detention					
Rough Grading	\$ 261,510.00	1	\$ 261,510.00	in A/E Design Fee	\$ 261,510
Fine Grading	\$ 29,910.00	1	\$ 29,910.00	in A/E Design Fee	\$ 29,910
On-site Concrete	\$ 93,240.00	1	\$ 93,240.00	in A/E Design Fee	\$ 93,240
On-site Electrical	\$ 30,525.00	1	\$ 30,525.00	in A/E Design Fee	\$ 30,525
On-site Paving	\$ 489,230.00	1	\$ 489,230.00	in A/E Design Fee	\$ 489,230
On-site Utilities	\$ 270,770.00	1	\$ 270,770.00	in A/E Design Fee	\$ 270,770
Decorative Masonry					
Bmper Stops, Striping and Signs	\$ 8,155.00	1	\$ 8,155.00	in A/E Design Fee	\$ 8,155
Other (specify) -see footnote 1					
<b>Total</b>					<b>\$ 1,183,340</b>

Signature of Registered Engineer

Printed Name

Date

If a revised form is submitted, date of submission:

# Tab 4h

## Development Cost Schedule







**FINANCING:**

**CONSTRUCTION LOAN(S)<sup>3</sup>**

Interest	264,000		264,000
Loan origination fees			0
Title & recording fees	67,441		67,441
Closing costs & legal fees	59,000		59,000
Inspection fees	30,000		30,000
Credit Report			
Discount Points			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**PERMANENT LOAN(S)**

Loan origination fees	42,800		
Title & recording fees	15,000		
Closing costs & legal	19,000		
Bond premium			
Credit report			
Discount points			
Credit enhancement fees			
Prepaid MIP			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**BRIDGE LOAN(S)**

Interest			
Loan origination fees			
Title & recording fees	25,000		
Closing costs & legal fees			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			

**OTHER FINANCING COSTS<sup>3</sup>**

Tax credit fees	48,040		
Tax and/or bond counsel			
Payment bonds			
Performance bonds			
Credit enhancement fees			
Mortgage insurance premiums			
Cost of underwriting & issuance			
Syndication organizational cost	30,500		
Tax opinion	2,500		
Refinance (existing loan payoff amt)			
Other (specify) - see footnote 1			
Other (specify) - see footnote 1			
<b>Subtotal Financing Cost</b>	\$603,281	\$0	\$420,441

**DEVELOPER FEES<sup>3</sup>**

Housing consultant fees <sup>4</sup>	20,000		20,000
General & administrative			
Profit or fee	1,457,000		1,457,000
<b>Subtotal Developer Fees</b>	\$1,477,000	\$0	\$1,477,000

**RESERVES**

Rent-up - new funds			
Rent-up - existing reserves*			
Operating - new funds	312,752		
Operating - existing reserves*			
Replacement - new funds			
Replacement - existing reserves*			
Escrows - new funds	19,482		
Escrows - existing reserves*			
<b>Subtotal Reserves</b>	\$332,234	\$0	\$0

**\*Any existing reserve amounts should be listed on the Schedule of Sources.**

**TOTAL HOUSING DEVELOPMENT COSTS<sup>5</sup>**

\$13,055,420	\$0	\$11,796,374
--------------	-----	--------------

BREAKDOWN MUST BE PROVIDED



# Tab 4i

## Sources and Uses

## Schedule of Sources of Funds and Financing Narrative

Describe all sources of funds. Information must be consistent with the information provided throughout the Supplemental Request Form (i.e. Financing Narrative, Term Sheets and Development Cost Schedule).

### Bond Financing for Tax Exempt Bond Developments (Include amount of bonds actually used, not bond reservation amount. Bonds do not add into total sources)

Bond Issuer	Funding Description	Construction Period Bonds			Permanent Period Bonds				
		Bond Amount			Bond Amount				
TDHCA	Mortgage Revenue Bond								
	Tax Exempt Bonds								
	Taxable Bonds								

### Debt

Financing Participants	Funding Description	Construction Period		Lien Position	Permanent Period					Lien Position
		Loan/Equity Amount	Interest Rate (%)		Loan/Equity Amount	Interest Rate (%)	Amort - ization	Term (Yrs)	Syndication Rate	
TDHCA	Multifamily Direct Loan	\$0	0.00%		\$ -	0.00%	0	0		
Bonneville Multifamily Mortgage	USDA 538 Loan	\$4,280,000	3.32%	1st	\$ 4,280,000	3.32%	40	40		1st
Regions Bank	Bridge Loan	\$5,000,000	4.00%	2nd	\$ -					

### Third Party Equity

Regions Bank	<a href="#">HTC</a>	\$ 962,625	\$ 2,598,828		\$ 8,662,759				0.9	

### Grant

	<a href="#">§11.9(d)(2)LPS Contribution</a>									

### Deferred Developer Fee

General Partner	Deferred Dev. Fee	\$ -	5.00%		\$ 112,661	5.00%				

### Other

	<a href="#">Direct Loan Match</a>									
<b>Total Sources of Funds</b>		\$ 11,878,828			\$ 13,055,420					
<b>Total Uses of Funds</b>					\$ 13,055,420					



**INSTRUCTIONS:** Describe the sources of funds that will finance Development. The description must include construction, permanent, and bridge loans, and all other types of funds to be used for development. The information must be consistent with all other documentation in this section. Provide sufficient detail to identify the source and explain the use (in terms of the timing and any specific uses) of each type of funds to be contributed. In addition, describe/explain replacement reserves. Finally, describe/explain operating items. If cash from operations, interest income, etc is being used as a source, provide a description of how those amounts are calculated. The narrative must include rents, operating subsidies, project based assistance, and all other sources of funds for operations. In the foregoing discussion of both development and operating funds, specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.

**Describe the sources and uses of funds (specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments). For Direct Loan or Tax-Exempt Bond Applications that contemplate an FHA-insured loan, this includes the anticipated date that FHA application will be submitted to HUD (if not already submitted).**

The development will utilize a bridge loan with Regions Bank and Regions Bank will also provide the equity and will purchase the additional credits awarded. Bonneville Multifamily Mortgage is providing the USDA Construction/Permanent Loan.

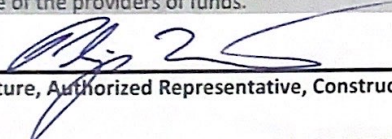
**Describe the replacement reserves. Are there any existing reserve accounts that will transfer with the property? If so, describe what will be done with these funds.**

*There are no existing reserves.*

**Describe the operating items (rents, operating subsidies, project based assistance, etc., and specify the status (dates and deadlines) for applications, approvals and closings, etc., associated with the commitments.**

There are currently no operating subsidies anticipated for this development.

By signing below I acknowledge that the amounts and terms of all anticipated sources of funds as stated above are consistent with the assumptions of my institution as one of the providers of funds.

  
\_\_\_\_\_  
Signature, Authorized Representative, Construction or Permanent Lender

Phillip Mullins  
\_\_\_\_\_  
Printed Name

1/26/2022  
\_\_\_\_\_  
Date

Telephone: 205-535-5954

Email address: phillip.mullins@regions.com

If a revised form is submitted, date of submission:

1/26/2022

# Tab 4j

**MF Direct Loan - Fin Cap**

**Not Applicable**



## Financial Capacity, Owner Equity, and Loan-to-Cost Requirements

[10 TAC §13.8(c)(9) and (10) and/or 10 TAC §11.204(7)(C) as applicable ]

### Financial Capacity (10 TAC §13.8(c)(9))

If the Department's Direct Loan amounts to more than 50% of the Total Housing Development Cost, except for Developments also financed through the USDA §515 program, the Application **MUST** include:

- A letter from a Third Party Certified Public Accountant verifying the capacity of the Applicant, Developer, or Development Owner to provide at least 10% of the Total Housing Development Cost as a short term loan for Development; **OR**
- Evidence of a line of credit or equivalent tool in the sole determination of the Department equal to at least 10% of the Total Housing Development Cost from a financial institution that is available for use during the proposed development activities.

### Owner Equity and Appraisal Requirements (10 TAC §13.8(c)(10))

If the Direct Loan is the only source of Department funding for the Development (no HTC being requested), the Development Owner **MUST** provide:

- equity in an amount not less than 10% of Total Housing Development Costs; and
- evidence through submission of this Application that the Direct Loan amount requested is not greater than 80% of the Total Housing Development Costs

### Owner Equity Requirements for ALL Applications (10 TAC §11.204(7)(C))

As a result of providing owner equity in an amount greater than 5% of Total Housing Development Costs, the following must be provided in accordance with 10 TAC §11.204(7)(C):

- A letter - not older than 6 months from the date the of Application submission - from a Third Party CPA verifying the capacity of the Development Owner to provide the proposed financing with funds that are not otherwise committed or pledged; and
- A letter - not older than 6 months from the date the of Application submission - from the Development Owner's bank or banks confirming that such funds are and will remain available at commitment and until the required investment is completed.



# Tab 4k

**Match Funds**

**Not Applicable**

**Match Funds (Multifamily Direct Loan Applications Only) [§13.2(9)]**

Match as required by the applicable NOFA must be documented with a letter from the anticipated provider of Match indicating the provider's willingness and ability to make a financial commitment should the Development receive an award of Multifamily Direct Loan funds. The information provided must be consistent with all other documentation in the Application.

Indicate the amount and source of Match funds in the appropriate spaces in the table below.

Generally, a Related Party contribution to the Development is not considered eligible Match. Please see 10 TAC §13.2(9) as well as the Match Guidance below.

Type of Match Pledged	Pledged Amount	Source of Funds
Non-Federal Grants		
Waived, foregone or deferred fees and charges (ex: debris removal and container fees, tap fees, building permits, other mandatory fees charged by the local municipality)  <b>**CANNOT INCLUDE DEVELOPER FEES**</b>		
Below Market Interest Rate Loan		
Property Tax Abatement		
Donated Non-Professional Labor		
Non-Federally Funded Infrastructure		
Rental Value of Donated Use of Site Preparation or Construction Equipment		
Donated Construction Materials		
Donated Site Preparation		
Donated Demolition Services		
Donated Real Property		
Total Value of Match Pledged	\$ -	
Total Amount of MF Direct Loan funds Requested	\$ -	
Percentage of MF Direct Loan Funds to be Matched (Total Value of Match /MF Direct Loan Funds Requested)	#DIV/0!	

# Tab 41

**Supporting Documents**

## Supporting Documents Checklist

**ALL SUPPORTING DOCUMENTS MUST BE CONSISTENT WITH THE SOURCES AND USES**

- Executed Pro Forma from Permanent or Construction Lender
- Evidence of **all** Permanent and Construction Financing (term sheets, loan agreements)  
**NOTE:** Term sheets and/or loan documents from debt and equity providers must **include a statement confirming they are aware the Applicant intends to elect income averaging**. If the term sheet speaks to unit designations, ensure those unit designations are consistent with the rent schedule and site plan.
- Evidence of any Gap Financing, terms included
- Evidence of any Owner Contributions, with financial support if required
- Evidence of Equity Financing (HTC applications only)
- Letter from Texas Historical Commission (THC) indicating preliminary eligibility for historic (rehabilitation) tax credits and documentation of Certified Historic Structure status as detailed in QAP §11.9(e)(6).
- Letter from Local Political Subdivision evidencing a loan, grant, reduced fees or contribution of other value to benefit the Development. [QAP §11.9(d)(2)]
- Evidence of Rental Assistance/Subsidy
- Construction contracts, construction bids, and/or an updated Scope and Cost Review Supplement



**15 Year Rental Housing Operating Pro Forma (All Programs)**

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

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Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$678,254	\$691,819	\$705,656	\$719,769	\$734,164	\$810,577	\$894,942
<b>EXPENSES</b>							
General & Administrative Expenses	\$22,180	\$22,845	\$23,531	\$24,237	\$24,964	\$28,940	\$33,549
Management Fee	\$ 40,915	\$ 41,733	\$ 42,568	\$ 43,419	\$ 44,288	\$ 48,897	\$ 53,986
Payroll, Payroll Tax & Employee Benefits	\$ 73,220	\$ 75,417	\$ 77,679	\$ 80,009	\$ 82,410	\$ 95,535	\$ 110,752
Repairs & Maintenance	\$ 65,700	\$ 67,671	\$ 69,701	\$ 71,792	\$ 73,946	\$ 85,724	\$ 99,377
Electric & Gas Utilities	\$ 13,787	\$ 14,201	\$ 14,627	\$ 15,065	\$ 15,517	\$ 17,989	\$ 20,854
Water, Sewer & Trash Utilities	\$ 51,600	\$ 53,148	\$ 54,742	\$ 56,385	\$ 58,076	\$ 67,326	\$ 78,050
Annual Property Insurance Premiums	\$ 25,540	\$ 26,306	\$ 27,095	\$ 27,908	\$ 28,745	\$ 33,324	\$ 38,632
Property Tax	\$ 68,800	\$ 70,864	\$ 72,990	\$ 75,180	\$ 77,435	\$ 89,768	\$ 104,066
Reserve for Replacements	\$ 21,600	\$ 22,248	\$ 22,915	\$ 23,603	\$ 24,311	\$ 28,183	\$ 32,672
Other Expenses	\$ 19,036	\$ 19,607	\$ 20,195	\$ 20,801	\$ 21,425	\$ 24,838	\$ 28,794
TOTAL ANNUAL EXPENSES	\$402,378	\$414,040	\$426,044	\$438,400	\$451,118	\$520,524	\$600,732
NET OPERATING INCOME	\$275,876	\$277,779	\$279,612	\$281,369	\$283,047	\$290,052	\$294,211
<b>DEBT SERVICE</b>							
First Deed of Trust Annual Loan Payment	\$194,862	\$194,862	\$194,862	\$194,862	\$194,862	\$194,862	\$194,862
Second Deed of Trust Annual Loan Payment	21,400	21,400	21,400	21,400	21,400	21,400	21,400
Third Deed of Trust Annual Loan Payment							
Other Annual Required Payment							
Other Annual Required Payment							
ANNUAL NET CASH FLOW	\$59,614	\$61,517	\$63,350	\$65,107	\$66,785	\$73,790	\$77,949
CUMULATIVE NET CASH FLOW	\$59,614	\$121,132	\$184,482	\$249,589	\$316,374	\$667,812	\$1,047,159
Debt Coverage Ratio	1.28	1.28	1.29	1.30	1.31	1.34	1.36
Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

Brent Peterson  
Bonneville Multifamily Capital

Signature, Authorized Representative,  
Construction or Permanent Lender

Phillip Mullins

Printed Name

12/9/2021

Date

Phone:

205-535-5954

Email:

phillip.mullins@regions.com

Signature, Authorized Representative,

Printed Name

12/10/2021

Date








# La Grange Springs Sources/Uses

Final Audit Report

2021-12-10

Created:	2021-12-10
By:	Sarah Johansen (sjohansen@bmfcap.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAaWNeNwf6kg6EVcwJAFz8ybcEtld6rKWMU

## "La Grange Springs Sources/Uses" History


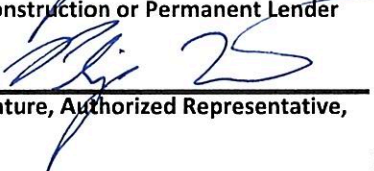
-  Document created by Sarah Johansen (sjohansen@bmfcap.com)  
2021-12-10 - 6:55:51 PM GMT- IP address: 67.148.9.226
-  Document emailed to Brent Peterson (brent@bmfcap.com) for signature  
2021-12-10 - 6:57:50 PM GMT
-  Email viewed by Brent Peterson (brent@bmfcap.com)  
2021-12-10 - 7:12:14 PM GMT- IP address: 172.224.242.56
-  Document e-signed by Brent Peterson (brent@bmfcap.com)  
Signature Date: 2021-12-10 - 7:12:35 PM GMT - Time Source: server- IP address: 65.130.169.34
-  Agreement completed.  
2021-12-10 - 7:12:35 PM GMT

## 15 Year Rental Housing Operating Pro Forma (All Programs)

The pro forma should be based on the operating income and expense information for the base year (first year of stabilized occupancy using today's best estimates of market rents, restricted rents, rental income and expenses), and principal and interest debt service. The Department uses an annual growth rate of 2% for income and 3% for expenses. Written explanation for any deviations from these growth rates or for assumptions other than straight-line growth made during the proforma period should be attached to this exhibit.

INCOME	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 10	YEAR 15
POTENTIAL GROSS ANNUAL RENTAL INCOME	\$721,188	\$735,612	\$750,324	\$765,330	\$780,637	\$861,886	\$951,592
Secondary Income	\$ 12,060	\$ 12,301	\$ 12,547	\$ 12,798	\$ 13,054	\$ 14,413	\$ 15,913
POTENTIAL GROSS ANNUAL INCOME	\$733,248	\$747,913	\$762,871	\$778,129	\$793,691	\$876,299	\$967,505
Provision for Vacancy & Collection Loss	(\$54,994)	(\$56,093)	(\$57,215)	(\$58,360)	(\$59,527)	(\$65,722)	(\$72,563)
Rental Concessions	\$0						
EFFECTIVE GROSS ANNUAL INCOME	\$678,254	\$691,819	\$705,656	\$719,769	\$734,164	\$810,577	\$894,942
EXPENSES							
General & Administrative Expenses	\$22,180	\$22,845	\$23,531	\$24,237	\$24,964	\$28,940	\$33,549
Management Fee	\$ 40,915	\$ 41,733	\$ 42,568	\$ 43,419	\$ 44,288	\$ 48,897	\$ 53,986
Payroll, Payroll Tax & Employee Benefits	\$ 73,220	\$ 75,417	\$ 77,679	\$ 80,009	\$ 82,410	\$ 95,535	\$ 110,752
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Other (Describe)							
Other (Describe)							

By signing below I (we) are certifying that the above 15 Year pro forma, is consistent with the unit rental rate assumptions, total operating expenses, net operating income, and debt service coverage based on the bank's current underwriting parameters and consistent with the loan terms indicated in the term sheet and preliminarily considered feasible pending further diligence review. The debt service for each year maintains no less than a 1.15 debt coverage ratio.

  
 Signature, Authorized Representative,  
 Construction or Permanent Lender  
  
 Signature, Authorized Representative,

Phillip Mullins  
 Printed Name  
 12/9/2021  
 Date  
 Phillip Mullins  
 Printed Name

Phone: 205-535-5954  
 Email: phillip.mullins@regions.com  
 12/9/2021  
 Date

If a revised form is submitted, date of submission:

12/10/2021



## CONSTRUCTION AND TERM LOAN AGREEMENT

This Construction and Term Loan Agreement (the “Agreement”) is effective as of November 13, 2020, and made by and between Bonneville Mortgage Company, a Utah corporation (“Lender”), and La Grange Springs, LP, an Alabama limited partnership (“Borrower”).

### RECITALS

A. Borrower is, or on the Closing Date will become, the owner of the Land and desires and intends to construct the Improvements on the Land.

B. Borrower has applied to Lender for the Loan for construction of the Improvements, as well as long term financing of the Mortgaged Property.

C. Lender is willing to make the Loan to Borrower upon the terms, covenants and conditions contained in the Loan Documents.

### AGREEMENT

In exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender agree as follows:

### ARTICLE 1

#### DEFINITIONS

1.1.1 Defined Terms. When used in this Agreement, the following terms shall have the following meanings:

1.1.2 “Agency” means the Texas Department of Housing and Community Affairs, in its capacity as the designated agency of the State of Texas to allocate tax credits, acting through any authorized representative.

1.1.3 “Application for Disbursement” means the American Institute of Architects Document G702, Application and Certificate for Payment, or alternative form acceptable to Lender in its sole discretion.

1.1.4 “Appraisal” means the appraisal of the Mortgaged Property prepared by an appraiser and showing a value for the Mortgaged Property upon completion of the construction of the Improvements acceptable to Lender and the USDA.

1.1.5 “Architect” means the architect for the Improvements.

1.1.6 “Architect’s Certificate” means the certificate of the Architect relating to the construction of the Improvements executed in connection with the Loan in a form and substance acceptable to Lender.

1.1.7 “Architect’s Contract” means the agreement between the Architect and Borrower relating to the design and construction of the Improvements.

1.1.8 “Assignment of Contracts and Permits” means the Assignment of Contracts and Permits effective as of the Closing Date and entered into in connection with the Loan.

1.1.9 “Assignment of Developer Rights” means the Assignment of Developer Rights effective as of the Closing Date and entered into in connection with the Loan.

1.1.10 “Assignment of Management Contract” means the Assignment of Management Contract effective as of the Closing Date and entered into in connection with the Loan.

1.1.11 “Assignment of Partnership Interests” means the Assignment of Partnership Interests effective as of the Closing Date and entered into between and among the General Partner and Lender, whereby the General Partner has agreed to assign to Lender all of its right, title and interest in and to all of its partnership interests in Borrower.

1.1.12 “Authorization to Disburse” means the Authorization to Disburse form acceptable to Lender, to be submitted in connection with disbursements as set forth in Section 8.6 of this Agreement.

1.1.13 “Bridge Loan” means the subordinate mortgage loan from Bridge Loan Lender, secured by the Mortgaged Property, in the original principal amount of Five Million Dollars (\$5,000,000.00).

1.1.14 “Bridge Loan Documents” means, collectively, the promissory note entered into by Borrower in the original principal amount of the Bridge Loan, the deed of trust, and all related loan documents executed by Borrower as a subordinate lien on the Mortgaged Property in connection with the Bridge Loan.

1.1.15 “Bridge Loan Lender” means Regions Bank, an Alabama banking corporation, in its capacity as the lender of the Bridge Loan.

1.1.16 “Bridge Loan Subordination Agreement” means the Subordination Agreement effective as of the Closing Date and entered into in connection with the Loan.

1.1.17 “Budget” means the itemized, detailed breakdown of the projected costs and expenses that are expected to be incurred in connection with the construction of the Improvements, as approved by Lender.

1.1.18 “Capital Contributions” means all Borrower’s right and interest to receipt and payment of the capital contributions to Borrower from the Limited Partner as set forth in the Limited Partnership Agreement.

1.1.19 “Carryover Allocation Agreement” means the agreement entered into between the Agency and Borrower, whereby the Agency has agreed to allocate federal tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, for the Improvements in an amount acceptable to Lender, in its sole discretion.

1.1.20 “Certificate of Substantial Completion” means the American Institute of Architects Document G704, Certificate of Substantial Completion, or alternative form acceptable to Lender, in its sole discretion.

1.1.21 “Change Order” or “Change Orders” means any change to the Plans or otherwise to the construction of the Improvements. All change orders shall be made pursuant to a change order form acceptable to Lender in its sole discretion and which change order has been signed and dated by Borrower and Lender.

1.1.22 “Closing Date” means the date of this Agreement set forth in the first paragraph on the first page of this Agreement.

1.1.23 “Collateral” means the property described in Section 2.7 of this Agreement as collateral for the Loan.

1.1.24 “Completion Date” has the meaning set forth in Section 7.1 of this Agreement.

1.1.25 “Construction Contract” means collectively (i) the agreement entered into between Contractor and Borrower relating to the construction of the Improvements; and (ii) all other contracts relating to the construction of the Improvements entered into between Borrower and any other contractor, subcontractor, or supplier.

1.1.26 “Construction Monitoring Agreement” means the Construction Monitoring Agreement effective as of the Closing Date and entered into by and among Borrower, Lender, Limited Partner, and Bonneville Mortgage Company, a Utah corporation, as “Disbursement Agent” in connection with the Loan.

1.1.27 “Contractor” means individually and collectively any contractor, subcontractor, laborer or supplier of materials with whom Borrower has entered into or shall hereafter enter into a Construction Contract.

1.1.28 “Contractor’s Certificate” means the certificate of the Contractor relating to the construction of the Improvements executed in connection with the Loan in a form and substance acceptable to Lender.

1.1.29 “Control Agreement” means the Deposit Account Control Agreement effective as of the Closing Date and entered into in connection with the Loan.

1.1.30 “Conversion Date” means the date on which the Loan is converted from a non-revolving construction loan to an amortizing term loan in accordance with the terms of the Note. In no event shall the Conversion Date be later than November 1, 2022.

1.1.31 “Deed Restriction” means the Deed Restriction effective as of the Closing Date and entered into in connection with the Loan.

1.1.32 “Developer” means Olympia Construction, Inc., an Alabama corporation.

1.1.33 “Draw Schedule” means the draw schedule attached hereto as Exhibit B and which identifies the order of construction draws from the Installment Funds and the Loan. The Draw Schedule may be modified from time to time by mutual agreement between Lender and Borrower.

1.1.34 “Environmental Compliance Certificate” means the Environmental Compliance Certificate and Indemnity Agreement effective as of the Closing Date and entered into in connection with the Loan.

1.1.35 “Environmental Report” means collectively (i) the Phase 1 Environmental Site Assessment prepared by Phase Engineering, Inc., dated August 18, 2020, acceptable to Lender, and (ii) any other environmental reports required by Lender prepared by an environmental engineer acceptable to Lender, in a form acceptable to Lender, and delivered to Lender in connection with the Land.

1.1.36 “Event of Default” has the meaning described in Article 9 of this Agreement.

1.1.37 “FDIC” means the Federal Deposit Insurance Corporation.

1.1.38 “General Partner” means La Grange Springs GP, LLC, an Alabama limited liability company.

1.1.39 “GNMA” means the Government National Mortgage Association, organized and existing under the laws of the Federal National Mortgage Association Act, 12 U.S.C. §1716 *et. seq.*

1.1.40 “Guarantor” means Olympia Construction, Inc., an Alabama corporation.

1.1.41 “Guaranty” means the Guaranty effective as of the Closing Date and executed by Guarantor in connection with the Loan.

1.1.42 “Hazardous Materials” means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (“PCBs”) and compounds containing them; lead and lead-based paint; asbestos or asbestos-containing materials in any form that is or could be friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Mortgaged Property is prohibited by any federal, state or local authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a “hazardous substance,” “hazardous material,” “hazardous waste,” “toxic pollutant,” “contaminant,” or “pollutant” by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law. Hazardous Materials expressly exclude those substances routinely used in the construction, operation and maintenance of residential properties provided that such substances are used in accordance with applicable laws.

1.1.43 “Hazardous Materials Laws” means all federal, state, and local laws, ordinances and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future and including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to Borrower or to the Land. Hazardous Materials Laws include, but are not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.*, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, *et seq.*, the Toxic Substance Control Act, 15 U.S.C. Section 2601, *et seq.*, the Clean Water Act, 33 U.S.C. Section, *et seq.*, and the Hazardous Materials Transportation Act, 49 U.S. C. Section 5101 *et seq.*, and their state analogs.

1.1.44 “Imposition Deposit Account” has the meaning set forth in Section 5.43 of this Agreement.

1.1.45 “Improvements” means the improvements to be constructed upon the Land consisting of construction of a 72-unit low income housing multi-family project, to be known as the La Grange Springs Apartments, all in accordance with the Plans, and all existing improvements located on the Land to the extent they are to remain on the Land following the completion of the construction of the Improvements.

1.1.46 “Indebtedness” means the Principal Amount and all accrued interest under the Loan, together with any additional advances, if any, and any additional amounts advanced by Lender, if any, pursuant to the Loan Documents, including, without limitation, advances made under Section 3.1 of the Security Instrument.

1.1.47 “Installment Funds” means all cash funds to be paid by the Limited Partner to Borrower in accordance with the Limited Partnership Agreement.

1.1.48 “Investment Limited Partner” means RAH Investor 288 LLC, a Mississippi limited liability company.

1.1.49 “Land” means the land located in Fayette County, State of Texas, as that land is described on the attached Exhibit A which is incorporated into this Agreement by this reference.

1.1.50 “Lease-Up Requirement” has the meaning set forth in Section 5.44 of this Agreement.

1.1.51 “Leases” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals.

1.1.52 “Lender’s Agreement” means the Lender’s Agreement entered into by and between Lender and the USDA in connection with the USDA Loan Guarantee.

1.1.53 “Lender’s Inspector” means the construction inspector retained by Lender to perform the obligations of the Lender’s Inspector set forth in this Agreement, or such other construction inspector retained by Lender to perform the obligations of the Lender’s Inspector set forth in this Agreement as designated by Lender, in its sole discretion.

1.1.54 “Limited Partner” means collectively Investment Limited Partner and Special Limited Partner.

1.1.55 “Limited Partnership Agreement” means the Amended and Restated Agreement of Limited Partnership dated November 1, 2020, and entered into between General Partner, Limited Partner and Jeff Beaver, as “Withdrawing Limited Partner”, in a form acceptable to Lender in its sole discretion.

1.1.56 “Loan” means the loan described in Article 2 of this Agreement made by Lender to Borrower pursuant to the Loan Documents, which Loan is in the amount of the Principal Amount.

1.1.57 “Loan Documents” means this Agreement, the Note, Security Instrument, UCC Fixture Filing, Regulatory Agreement, Deed Restriction, Security Agreement Regarding Deposit Accounts, Guaranty, UCC-1 Financing Statement, Environmental Compliance Certificate, Control Agreement, Assignment of Developer Rights, Assignment of Contracts and Permits, Assignment of Management Contract, Construction Monitoring Agreement, Solvency Certificate, together with all consents, agreements, and certificates attached as exhibits thereto, and all other documents, whether now or hereafter existing, executed in connection with the Loan.

1.1.58 “Loan Proceeds Account” means the account established on Lender’s records, in the name of Lender, known as a construction loan account or as a loan-in-process account to which the full amount of principal of the Loan will be credited and against which all

payments and expenses in connection with the Loan will be charged. Interest shall accrue only to such amounts as shall be actually disbursed from or charged on the Loan Proceeds Account from the time they are so disbursed or charged.

1.1.59 “Management Contract” means the management agreement for the Mortgaged Property entered into by and between Borrower and the Property Manager.

1.1.60 “Management Plan” means the management plan approved by Lender and the USDA relating to the operation of the Mortgaged Property developed by Borrower consistent with 7 CFR § 3565, Subparts E and F.

1.1.61 “Maturity Date” means the first day of the first month following the Conversion Date’s thirty-eighth (38th) anniversary date, which shall not be later than November 1, 2060, whereupon the Indebtedness and all accrued and unpaid interest shall be due and payable in accordance with the Note.

1.1.62 “Mortgaged Property” has the meaning set forth in the Security Instrument.

1.1.63 “Note” means the Multifamily Note effective as of the Closing Date and executed in connection with the Loan.

1.1.64 “Permits” means the building permits, licenses and approvals issued by the city/county wherein the Land is located relating to the construction of the Improvements.

1.1.65 “Plans” means the plans and specifications relating to the construction of the Improvements that were prepared by the Architect. The Plans shall include a site plan and landscaping plans for the Mortgaged Property showing, among other things, the location of the Improvements, parking spaces, easements, utilities, signs, and landscaping.

1.1.66 “Principal Amount” means Four Million Two Hundred Eighty Thousand and 00/100 Dollars (\$4,280,000.00).

1.1.67 “Property Manager” means Olympia Management, Inc., an Alabama corporation, or such other agent as is selected by the General Partner with the consent of the Limited Partner to manage the Mortgaged Property.

1.1.68 “Regulatory Agreement” means the Regulatory Agreement effective as of the Closing Date and entered into in connection with the Loan.

1.1.69 “Replacement Reserve Account” has the meaning as set forth in Section 7.25 of this Agreement.

1.1.70 “Retainage” means the retainage described in Section 8.12.1 of this Agreement.

1.1.71 “Rural Development Architect” means the architect approved by the USDA to review the Plans.

1.1.72 “Rural Development Handbook” means the Guaranteed Rural Rental Housing Program (GRRHP) Handbook as set forth in <https://www.rd.usda.gov/files/HB-1-3565.pdf> as of the Closing Date.

1.1.73 “Schedule of Title Exceptions” means the schedule of exceptions to coverage in the Title Policy and accepted by Lender contemporaneously with the execution of this Agreement.

1.1.74 “Security Agreement Regarding Deposit Accounts” means the Security Agreement Regarding Deposit Accounts effective as of the Closing Date and entered into in connection with the Loan.

1.1.75 “Security Instrument” means the Multifamily Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing effective as of the Closing Date and entered into by Borrower in connection with the Loan which encumbers the Mortgaged Property.

1.1.76 “Solvency Certificate” means the Solvency Certificate dated the Closing Date and executed by Borrower, General Partner, Developer, and Guarantor in connection with the Loan.

1.1.77 “Special Limited Partner” means Sterling Corporate Services LLC, a New York limited liability company.

1.1.78 “Survey” means the current land title survey of the Mortgaged Property described in Section 5.8 of this Agreement.

1.1.79 “Title Commitment” means the commitment for title insurance described in Section 5.6 of this Agreement.

1.1.80 “Title Company” means Old Republic National Title Insurance Company.

1.1.81 “Title Policy” means the policy of title insurance described in Section 5.7 of this Agreement.

1.1.82 “UCC-1 Financing Statement” means collectively the UCC-1 Financing Statements in connection with the Loan.

1.1.83 “UCC Fixture Filing” means the UCC Fixture Filing in connection with the Loan.

1.1.84 “USDA” means the United States Department of Agriculture, Rural Development.



1.1.85 “USDA Loan Guarantee Commitment” means the written commitment of the USDA in a form and substance acceptable to Lender, in its sole discretion, to issue the USDA Loan Guarantee.

1.1.86 “USDA Loan Guarantee” means the unconditional guarantee of the Loan by USDA in the amount of not less than ninety percent (90%) of the outstanding Principal Amount of the Loan commencing on the Closing Date. The USDA Loan Guarantee shall guarantee the Loan during the construction period and the term period of the Loan.

1.1.87 “USDA O&M Reserve Account” has the meaning set forth in Section 5.44 of this Agreement.

## ARTICLE 2

### AMOUNT AND TERMS OF LOAN

2.1 Term of Loan. The Loan will have a construction phase and a term phase. The construction phase of the Loan shall end no later than November 1, 2022. The term phase will end on the Maturity Date. During the construction phase the Loan shall be a non-revolving construction loan to Borrower in the amount of the Principal Amount for a term commencing on the Closing Date and ending on the Conversion Date. When all conditions precedent for converting the Loan to an amortizing term loan as set forth in the Note have been fully satisfied, the Loan will be converted to an amortizing term loan.

2.2 Interest Rate and Payment. The Loan shall be payable on the date and upon the terms and conditions set forth in the Note. All principal under the Note shall bear interest at the fixed rate of interest of 3.32% per annum as set forth in the Note.

2.3 Loan Fee. Borrower agrees to pay to Lender from the Loan proceeds, as a non-refundable fee for originating the Loan, an amount equal to Forty-Two Thousand Eight Hundred and 00/100 Dollars (\$42,800.00), which sum is to be paid on the Closing Date.

2.4 Draw Fee. For each disbursement of Loan proceeds, Borrower will pay to Lender from the Loan proceeds, as a non-refundable fee, an amount equal to Five Hundred Dollars (\$500.00) which sum is to be paid at the time of such disbursement.

2.5 USDA Fee. Borrower agrees to pay to Lender from the Loan proceeds, as an initial non-refundable USDA Guarantee fee, an amount equal to Thirty-Eight Thousand Five Hundred Twenty and 00/100 Dollars (\$38,520.00), which sum is to be paid on the Closing Date.

2.6 Annual USDA Guarantee Fee. Commencing on the first day of the month after the Closing Date, and continuing on the first day of each month thereafter during the term of the Loan, Borrower shall pay to Lender one twelfth (1/12) of the annual USDA guarantee fee due from Lender to the USDA for the applicable calendar year. The annual USDA guarantee fee is equal to one half percent (1/2%) of the outstanding Indebtedness. The Lender’s Agreement

requires Lender to pay the annual USDA guarantee fee to the USDA on January 1<sup>st</sup> of each year after the Closing Date.

2.7 Collateral. In addition to all other Collateral described in any of the Loan Documents, the Loan shall be secured by the following documents and all of the collateral described in each of the following documents (the “Collateral”):

2.7.1 Security Instrument. The Security Instrument.

2.7.2 Assignment of Contracts and Permits. The Assignment of Contracts and Permits.

2.7.3 Assignment of Developer Rights. The Assignment of Developer Rights.

2.7.4 Assignment of Management Contract. The Assignment of Management Contract.

2.7.5 Security Agreement Regarding Deposit Accounts. The Security Agreement Regarding Deposit Accounts.

2.7.6 UCC-1 Financing Statement. The UCC-1 Financing Statement.

2.7.7 UCC Fixture Filing. The UCC Fixture Filing.

2.8 Guaranty. The performance of Borrower’s obligations under the Loan shall be guaranteed by Guarantor in accordance with the Guaranty.

2.9 Advances Beyond Principal Amount. In the event Lender shall, in Lender’s sole discretion, and pursuant to the provisions of this Agreement, but without obligation, advance sums in excess of the Principal Amount, the sums so advanced, together with interest thereon at the same rate as provided for on the Principal Amount, shall be deemed added to the Indebtedness then due to Lender on the same terms as set forth in the Note and secured by the Loan Documents.

2.10 Interest Reserve. Lender shall determine monthly the amount of accrued interest as computed in the Note, and shall disburse to Lender from the Loan Proceeds Account an amount equal to such accrued interest to the extent that the undisbursed portion of the Loan Proceeds Account is so allocated and sufficient to pay the same; provided, however, that Lender may in Lender's sole discretion refuse to disburse such interest at such time and so long as (a) an Event of Default has occurred; or (b) Lender determines in Lender's sole and reasonable discretion that there are not sufficient funds remaining in the Loan Proceeds Account to enable Borrower to complete the construction of the Improvements in accordance with the Plans, pay the costs and other expenses referred to in Section 7.22 of this Agreement, and to cover the interest payments projected for the remainder of the term of the Loan as estimated by Lender. If Lender elects not to disburse interest for either of the reasons described in this Section 2.10,

Lender shall so notify Borrower and thereupon Borrower shall be obligated to pay such interest to Lender without the use of the Loan proceeds, in the manner and at the times provided in the Note.

2.11 Limitation on Borrower's and Guarantor's Liability. Borrower's personal liability under the Note and the Loan Documents shall be limited as expressly set forth in Section 9 of the Note. Guarantor's liability under the Note, the Guaranty and the Loan Documents shall be limited as expressly set forth in the Guaranty.

2.12 Interest and Accounts. Borrower agrees that all interest accruing on any funds deposited into any account established with Lender (or its designee) in connection with this Agreement shall be the property of and belong to Borrower, except for the interest accrued on funds deposited into the Imposition Deposit Account which shall belong to the Lender. Accounts established by Lender under this Agreement will be insured by the FDIC. Lender shall not be liable to Borrower for any loss to Borrower resulting from the failure of any financial institution where such accounts are established or held even if the balance of such accounts exceeds the insured limits of the FDIC.

Borrower hereby authorizes Lender as the signer on the Deposit Account as defined in the Security Agreement Regarding Deposit Accounts, wherever such Deposit Account is established, in which Borrower grants Lender a security interest under the Loan Documents. Officers of Lender shall be the only authorized signers on the Deposit Account.

2.13 Annexation. Lender acknowledges the Mortgaged Property may be annexed by the City of La Grange after the Closing Date. Lender hereby consents to this annexation. Lender and Borrower agree that all conditions, representations, warranties and covenants contained in this Agreement and all other Loan Documents pertaining to zoning, environmental, planning, subdivision, building, use and all similar type laws, ordinances, rules, restrictions, regulations and requirements include those of the City of La Grange; provided Borrower shall not be required to comply with such laws, ordinances, rules, restrictions, regulations and requirements of the City of La Grange to the extent the City of La Grange deems them to be legally non-conforming or waives the enforcement thereof in writing.

### ARTICLE 3

#### REPRESENTATIONS AND WARRANTIES

Borrower makes the following representations and warranties to Lender:

3.1 Organization and Qualification. Borrower is a limited partnership duly organized and existing in good standing under the laws of the State of Alabama. Borrower is duly qualified to do business in each jurisdiction where the conduct of its business requires qualification. Borrower's chief executive office and principal place of business is located in the state of its formation. Borrower has the full power and authority to own its properties and to conduct the business in which it engages and to enter into and perform its obligations under the Loan

Documents, and all agreements, documents, obligations, and transactions contemplated by this Agreement and the other Loan Documents. The only general partner of Borrower is the General Partner.

3.2 Authorization. The execution, delivery, and performance by Borrower of the Loan Documents and all agreements, documents, obligations, and transactions contemplated by this Agreement have been duly authorized by all necessary action on the part of Borrower and are not inconsistent with Borrower's organizational documents or any resolution of the board of directors, members, partners, or trustees, as the case may be, of Borrower, do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract, or other instrument to which Borrower is a party or by which Borrower is bound, and that upon their execution and delivery the Loan Documents will constitute legal, valid, and binding agreements and obligations of Borrower, enforceable in accordance with their respective terms.

The execution, delivery, and performance by the General Partner of the Loan Documents and all agreements, documents, obligations, and transactions contemplated by this Agreement have been duly authorized by all necessary action on the part of the General Partner and are not inconsistent with the General Partner's articles of organization and operating agreement, do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract, or other instrument to which the General Partner is a party or by which General Partner is bound, and that upon their execution and delivery, the Loan Documents will constitute legal, valid, and binding agreements and obligations of the General Partner, in its capacity as general partner of Borrower, enforceable in accordance with their respective terms.

3.3 Pending Litigation. There is no action, suit or proceeding pending or to the best of Borrower's knowledge, threatened, against or affecting Borrower or the Mortgaged Property, in any court of law or equity or before any governmental or quasi-governmental instrumentality, whether federal, state, county or municipal, which would materially and adversely affect Borrower's ability to perform under the Loan Documents.

3.4 Tax Returns. All tax returns and reports of Borrower required by law to be filed have been duly filed and all taxes, assessments, and other governmental charges upon Borrower and upon Borrower's properties, assets or income and upon the Mortgaged Property, which are due and payable, have been paid and shall continue to be so paid.

3.5 Compliance with Laws. The Land is properly zoned to permit construction of all Improvements to the Land in accordance with the Plans. The construction of the Improvements and the proposed use thereof will be completed so as to comply with all applicable zoning, housing, environmental protection, including without limitation, wetlands and endangered species protection, use and building codes, covenants, conditions, and restrictions recorded against the Land, laws, regulations and ordinances, including, without limitation to the extent applicable, the Miller Act (40 USC Section 270a and following), the Davis-Bacon Act (40 USC Section 276a and following), and all other federal law applicable to federal projects, and Borrower has no knowledge or notice of any violation of any laws, ordinances, codes,

requirements or orders of any governmental instrumentality having jurisdiction of the Land, including, without limitation, all applicable federal, state and local laws, rules, ordinances and regulations relating to the use, storage, transportation, and disposal of any Hazardous Materials on, in or under the Mortgaged Property, and all applicable federal, state and local laws, rules, ordinances and regulations relating to wetlands, endangered species, plants, animals, including without limitation, any plant, animal, or species identified under any federal, state, or local law as an “endangered species.” Borrower has no knowledge of any actions or proceedings pending before any court or administrative agency with respect to the validity of such laws, regulations and ordinances or with respect to any certificates issued thereunder. There is no environmental impact statement required by any federal, state or municipal laws or regulations, and the Mortgaged Property as proposed is permitted under all ordinances specially applicable to the district in which the Land is located.

3.6 Financial Statements and Other Information. Any and all financial statements delivered to Lender by Borrower are accurate, complete, prepared by an independent certified public accounting firm in accordance with generally accepted government auditing standards consistently applied and accurately represent the financial condition of Borrower and reflect accurately Borrower’s assets, properties, and results of operation of Borrower’s business as of the dates thereof. No material adverse change has occurred in the financial condition of Borrower reflected therein since the dates thereof and no additional borrowings have been made by Borrower since the dates thereof, other than the Loan and the Bridge Loan. All other documents and information delivered to Lender by Borrower are accurate in all respects.

Lender is agreeing to the terms contained in the Loan Documents with the intent to issue a GNMA security backed by the Loan or to sell the Loan in the secondary market. In order to so securitize or sell the Loan and obtain the USDA Loan Guarantee, Lender is required to make certain disclosures and representations to third parties based on its due diligence and underwriting and information provided to Lender by Borrower, General Partner and Guarantor.

Lender’s reliance on the completeness and accuracy of the information provided by Borrower is essential to Lender’s due diligence and underwriting and its representations and disclosures to third parties in connection with the securitization or sale of the Loan in the secondary market.

A breach of Borrower’s representations and warranties is an immediate Event of Default. If a misrepresentation or breach of warranty concerns the Mortgaged Property’s cash flow and a reduction in the Principal Indebtedness is necessary for the Mortgaged Property to comply with USDA and GNMA debt service requirements so the Loan can be sold in the secondary market, Borrower agrees to (i) pay such portion of the Principal Indebtedness, and (ii) a re-amortization of the remaining Principal Indebtedness so the Loan satisfies the USDA and GNMA debt service requirements. Nothing contained in this Section 3.6 shall be construed to constitute a waiver of any remedy of Lender contained in the Loan Documents until Lender is able to place the Loan in the secondary market, at which time the Event of Default that concerns the Mortgaged Property’s cash flow under this Section 3.6 shall be deemed waived and Lender agrees not to exercise any

other remedy available to Lender for such misrepresentation. Notwithstanding anything to the contrary contained in this Section 3.6, after the Lender closes the initial sale of the Loan in secondary market, this Section 3.6 shall terminate without the requirement of any additional action.

3.7 Title to Mortgaged Property. Borrower has good, indefeasible fee simple title to the Mortgaged Property, subject only to the Schedule of Title Exceptions. The Mortgaged Property, and any and all improvements thereon are free and clear of all liens and encumbrances, excepting the Schedule of Title Exceptions.

3.8 First Lien on Collateral. The Security Instrument, UCC Fixture Filing and other applicable Loan Documents shall constitute and create a valid first lien upon the Collateral, free of any prior mechanic's liens or materialmen's liens or special assessments for work completed or under construction on or before the date of this Agreement, subject only to the items contained in the Schedule of Title Exceptions.

3.9 Mechanic's Liens. No labor has been performed nor have any materials been furnished respecting the construction of the Improvements on the Land as of the Closing Date which have not been fully insured against any mechanic's and other liens. There are no unpaid claims for labor, architectural drawings, surveys, engineering plans, materials, supplies or other services delivered upon the Mortgaged Property other than those that are to be paid for out of the proceeds of the first disbursement of the Loan and no notice or claim of lien affecting the Mortgaged Property has been filed in the official records of the county wherein the Land is located. No such notice or claim of lien will be filed prior to the recording of the Security Instrument and no notice or claim filed subsequent thereto will have priority over the Security Instrument.

3.10 Commission. No brokerage or other fee, commission or compensation is to be paid by Lender in connection with the Loan, and Borrower hereby indemnifies Lender against any and all claims for brokerage fees or commissions which may be asserted against Lender, and hereby agrees to pay all expenses incurred by Lender in connection with the defense of any action or proceeding brought to collect any such brokerage fees or commissions in connection with the Loan, including but not limited to costs and attorneys' fees.

3.11 Architect. The Architect is a licensed architect in the state in which the Land is located. Borrower and Lender agree that the Architect shall be the inspecting architect for construction of the Improvements.

3.12 Contractor. If applicable, the Contractor is a licensed contractor in the state in which the Land is located.

3.13 Carryover Allocation Agreement. The Carryover Allocation Agreement has been validly executed and is a valid and legally binding obligation of the Agency and Borrower, enforceable in accordance with its terms. Both Borrower and the Agency have the power and authority to enter into the Carryover Allocation Agreement. No default has occurred under the

Carryover Allocation Agreement and no event has occurred which, with the passage of time or the giving of notice, or both, would constitute a default under the Carryover Allocation Agreement. The Agency has not threatened in writing or otherwise to cause the federal tax credits for the Mortgaged Property to be rescinded, canceled, forfeited, or recaptured.

3.14 Wetlands. To the best of Borrower's knowledge, there are no wetlands on the Land, as wetlands are regulated pursuant to Section 404 of the Federal Water Pollution Control Act (Clean Water Act), and the regulations promulgated under the Act, and its successor statute.

3.15 Environmental Regulations. The construction of the planned Improvements will not be materially adversely affected by any environmental regulations or ordinances of any municipal or state agency or board.

3.16 Single Asset Entity. The only assets of Borrower are the Mortgaged Property and assets directly related to the ownership, construction, and operation of the Mortgaged Property.

3.17 Approval of Plans. If required, the Limited Partner has approved the Plans and no further action is required by the Limited Partner with respect to the Plans.

#### ARTICLE 4

#### GUARANTY

4.1 Guaranty. Upon execution and delivery of this Agreement, Guarantor shall execute and deliver to Lender the Guaranty in a form acceptable to Lender.

4.2 Guarantor Organization and Qualification. Guarantor represents and warrants that (i) it is a corporation duly organized and existing in good standing under the laws of the State of Alabama, (ii) it is duly qualified to do business in each jurisdiction where the conduct of its business requires qualification, and (iii) it has the full power and authority to own its properties and to conduct the business in which it engages and to enter into and perform its obligations under the Loan Documents, the Guaranty, and all agreements, documents, obligations, transactions contemplated by this Agreement.

4.3 Guarantor Authorization. Guarantor represents and warrants that the execution, delivery, and performance by Guarantor of this Agreement, the Guaranty and all agreements, documents, obligations, and transactions contemplated by this Agreement have been duly authorized by all necessary action on the part of Guarantor and are not inconsistent with Guarantor's organizational documents or any resolution of the board of directors, members, partners, or trustees of Guarantor, do not and will not contravene any provision of, or constitute a default under, any indenture, mortgage, contract, or other instrument to which Guarantor is a party or by which Guarantor is bound, and that, upon their execution and delivery, this Agreement and the Guaranty will constitute legal, valid, and binding agreements and obligations of Guarantor, enforceable in accordance with their respective terms.

4.4 Guarantor Financial Statements and Reports. Guarantor covenants that it shall provide Lender, until such time as the Guaranty is terminated, with such financial statements and reports as Lender may reasonably request, and that such statements and reports shall be prepared in accordance with generally accepted accounting principles consistently applied, or other accounting standards acceptable to Lender, and shall fully and fairly represent Guarantor's financial condition and the results of its operations for the period or periods covered. As to all financial statements and reports which Guarantor has furnished or may in the future furnish to Lender, Guarantor acknowledges and agrees that it has a fiduciary duty to ensure that such statements and reports are accurate and complete.

Until requested otherwise by Lender, or until such time as the Guaranty is terminated, Guarantor shall provide the following financial statements and reports to Lender:

Annual financial statements of Guarantor prepared by Guarantor in a form acceptable to Lender, to be delivered to Lender within ninety (90) days of the end of each year during the term of the Loan. The annual financial statements shall include a certification by Guarantor that they are accurate, not misleading, and prepared in accordance with applicable law.

Annual federal tax returns of Guarantor in a form acceptable to Lender, to be delivered to Lender within thirty (30) days of the date of filing of the return. The annual tax returns shall include a certification by Guarantor that each annual tax return is accurate, not misleading, and prepared in accordance with applicable law.

4.5 Accuracy of Guarantor Financial Statements. Borrower and Guarantor represent and warrant that all of Guarantor's financial statements, pro forma and actual, previously delivered to Lender have been prepared in accordance with generally accepted accounting principles consistently applied and accurately represent Guarantor's actual and anticipated financial condition as of the date of such financial statements, and fully and fairly represent the results of Guarantor's operations for the period or periods covered. Borrower and Guarantor represent and warrant that since the date of such financial statements, there has been no material adverse change in Guarantor's financial condition.

4.6 Disclosure of Financial and Other Information. Guarantor hereby consents to Lender disclosing to any other lender who may participate in the Loan, any and all information, knowledge, reports, and records, including, without limitation, financial statements, relating in any manner whatsoever to the Loan and Guarantor. Lender may also provide information regarding Guarantor or the Mortgaged Property or both Guarantor and the Mortgaged Property to third parties with an existing or potential prospective interest in the servicing, enforcement, evaluation, performance, purchase or securitization of the Indebtedness, including but not limited to trustees, master servicers, special servicers, rating agencies, and organizations maintaining databases on the underwriting and performance of multifamily mortgage loans. Guarantor irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including but not limited to any right of privacy.



4.7 Net Worth and Liquidity. At all times during the term of the Loan, Guarantor shall maintain ownership of (i) a minimum tangible net worth equal to at least one hundred and twenty percent (120%) of the Loan's outstanding principal balance, and (ii) cash and marketable securities of at least Two Hundred Thousand Dollars (\$200,000.00).

## ARTICLE 5

### CONDITIONS PRECEDENT TO FIRST DISBURSEMENT

As a condition precedent to the first disbursement of any Loan proceeds, all of the following conditions must be fully satisfied as determined by Lender in Lender's sole discretion:

5.1 Tax Credits. Borrower has delivered to Lender evidence satisfactory to Lender that the Mortgaged Property will qualify for and, subject to ongoing requirements which Borrower covenants to satisfy, receive federal low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986.

5.2 Authority and Management. Borrower has delivered to Lender a copy of its organizational documents acceptable to Lender, together with all amendments and an original certificate of resolutions of the board of directors, members, partners, or trustees, as the case may be, of Borrower acceptable to Lender. Borrower also has delivered to Lender such other evidence of Borrower's good standing and authority as Lender may request. Borrower has delivered to Lender information satisfactory to Lender concerning the personnel or entities that will manage the Mortgaged Property.

Borrower has delivered to Lender a copy of the General Partner's organizational documents, together with all amendments acceptable to Lender. Borrower also has delivered to Lender such other evidence of General Partner's good standing and authority as Lender may request.

5.3 Taxes. Borrower has delivered to Lender evidence satisfactory to Lender that all past and current real estate taxes and special improvement assessments applicable to the Mortgaged Property have been paid in full, except taxes and assessments not yet due and owing.

5.4 Budget. Borrower has delivered to Lender in a form and content satisfactory to Lender and the USDA, a detailed Budget, signed by Borrower and the Contractor of the over-all cost of the Improvements, both on-site and off-site Improvements, the cost of fixtures and equipment, loan fees, professional fees, estimated interest cost and such other matters as may be required by Lender, and shall deposit with Lender the amount of the over-all cost of the Improvements in excess of the amount of Loan proceeds. The Budget must be approved by the Architect and the Lender's Inspector, prior to commencement of construction as being reasonable and containing all items that are necessary to complete the Improvements in accordance with the Plans.

5.5 Plans. Borrower has delivered to Lender a set of Plans prepared by the Architect which Plans have been reviewed and approved by Lender, Lender's Inspector, and the Rural Development Architect. In addition, the Architect has completed Rural Development Form 1924-25, "Plan Certification" and delivered a copy thereof to the Rural Development Architect. The Plans shall be signed by Borrower, the Contractor, and the Architect. The Plans shall be marked approved by the appropriate governmental authorities or other evidence satisfactory to Lender shall be delivered to Lender reflecting the approval by the appropriate governmental authorities of the Plans. The Plans shall clearly indicate the proposed Improvements, design features for noise attenuation to ensure compliance with all applicable laws and regulations, and parking spaces and easements as well as the final and complete plans and specifications, including architectural, structural, mechanical, plumbing and electrical and soils report. Landscaping plans shall be submitted to and approved by Lender and landscaping plans shall be submitted to and approved by Lender prior to commencement of any such landscaping work. Except as otherwise provided in this Agreement, no changes to the Plans shall be made without the prior written approval of Lender. Neither Lender's approval of the Plans, nor any subsequent inspections or approvals of the Mortgaged Property during construction shall constitute a warranty or representation by Lender or any of its agents, representatives or designees as to the technical sufficiency or adequacy of safety of the structures of any of the component parts of any other physical condition or feature pertaining to the Mortgaged Property. All plans shall be approved, in writing, by Lender.

5.6 Title Commitment. Borrower has delivered to Lender a current commitment for title insurance or preliminary title report satisfactory to Lender, in Lender's sole discretion, respecting the Mortgaged Property from the Title Company on a current TLTA extended form coverage basis which is acceptable to Lender (the "Title Commitment"). The Title Commitment shall set forth a description of the Land that is the same as the description of the Land set forth in the Survey. The Title Commitment shall have attached copies of all instruments which appear as exceptions to title in the Title Commitment. The Title Commitment shall also include a judgment search respecting Borrower and any other party that holds title to all or any portion of the Land.

5.7 Title Policy. Lender has received and approved a policy of title insurance on the Mortgaged Property which shall (a) be a TLTA extended coverage mortgagee's policy, (b) show Borrower as the sole owner of indefeasible fee simple title to the Mortgaged Property, (c) be in the total amount of the Principal Amount for the Loan, and (d) be issued and underwritten by a title insurance company satisfactory to Lender through the Title Company (the "Title Policy"). The Title Policy shall insure that the Security Instrument is a valid first mortgage lien against the Mortgaged Property and that the Mortgaged Property is free and clear of all liens, encumbrances and other exceptions to title, except the Schedule of Title Exceptions. The Title Policy shall include such additional terms and special endorsements upon issuance as may be required by Lender. The Title Policy shall insure the Mortgaged Property has direct access to a dedicated street.

5.8 Survey. Borrower has delivered to Lender a current survey of the Land acceptable to Lender and the Title Company (the "Survey"). The Survey shall be prepared and certified by a land surveyor or engineer registered in the state in which the Land is located. The Survey must be prepared in compliance with the minimum standard detail requirements for Land Title Surveys as most recently adopted by ALTA and NSPS. The Survey shall bear the land surveyor's or engineer's certificate in favor of Borrower, Lender, Lender's assignee, USDA, and the Title Company that the Survey has been prepared in compliance with the minimum standard detail requirements. The Survey shall identify by reference to the exception number and recording information set forth in the Title Policy each of the easements, rights-of-way, encroachments, fences, utilities, and other exceptions to title referred to in the Title Commitment that can be depicted on the Survey and further must correctly show all building lines of record, the location of all buildings, structures and other improvements situated on the Land, and that, except as shown, there are no easements or rights of way, no party walls, no encroachments on adjoining premises, streets or alleys by any of the buildings, structures or other improvements, and no encroachments on the premises by buildings, structures or other improvements situated on adjoining premises.

5.9 Off-Site Improvements. Borrower has delivered to Lender evidence satisfactory to Lender that all off-site Improvements, including but not limited to, water supply, sanitary sewer facilities and storm drainage systems, and all utility lines for electrical and telephone facilities and natural gas lines, are or will be available at the boundaries of the Land at the time required to permit the expeditious and timely completion, occupancy, and use of the Improvements and that all utilities are operational. Borrower has delivered to Lender will-serve letters from utility companies or municipal authorities stating that electricity, gas, water, sewer and telephone services will be available to the Improvements upon completion. Borrower has delivered to Lender evidence satisfactory to Lender that all applicable tap and connection fees have been paid or will be paid out of the first disbursement of the proceeds of the Loan.

5.10 Building Permits and Other Licenses and Permits. Borrower has delivered to Lender either copies of all building permits and other licenses and permits required for the construction of the Improvements or evidence satisfactory to Lender that the city/county wherein the Land is located and all other applicable regulatory entities are prepared to issue the building permits and other licenses and permits upon payment by Borrower of the fees required to be paid for the issuance of the permits and licenses which fees shall be paid from the proceeds of the first disbursement of the proceeds of the Loan.

5.11 Compliance with Zoning and Other Laws. Borrower has delivered to Lender the signed Architect's Certificate or other evidence satisfactory to Lender that the construction and use of the Improvements contemplated by the Loan Documents comply with all applicable zoning, environmental, planning, subdivision, building, use and all similar type laws, ordinances, rules, restrictions, regulations and requirements of all governmental authorities having jurisdiction over the Land and the construction and use of the Improvements.

5.12 Soil Reports. Borrower has delivered to Lender a copy of a soil report and letter from an engineer acceptable to Lender, and from the Architect, if required by Lender, stating that (a) the engineer has reviewed the soil report; (b) such soil conditions will not prevent construction of the Improvements at the cost provided in the Budget; and (c) the soil will not require any special engineering treatment.

5.13 Insurance. Borrower has delivered to Lender copies of all insurance policies required by the Loan Documents and evidence satisfactory to Lender that the insurance policies required by the Loan Documents, including, without limitation, Section 6.13 of this Agreement, are in effect as of the Closing Date.

5.14 Contractors and Subcontractors. Borrower has delivered to Lender a statement setting forth the names and addresses of each Contractor and every other subcontractor, supplier, person, firm or corporation who has contracted as of the date of the first disbursement of Loan proceeds to furnish materials, perform labor or provide services in connection with the design and construction of the Improvements. Borrower has delivered to Lender a copy of the Architect's Contract.

5.15 Cost Breakdown. Borrower has delivered to Lender a complete breakdown of the costs to purchase the Land, to construct the Improvements, including landscaping and parking, and the finance charges shall be furnished by the Contractor to Lender, in a form satisfactory to Lender. Borrower shall be fully responsible for any cost overrun and shall hold Lender harmless from any liens that shall result from the cost overruns.

5.16 Mechanic's Liens. Borrower has delivered to Lender evidence satisfactory to Lender that there are no unpaid claims for labor, architectural drawings, surveys, engineering plans, materials, supplies and other services delivered upon the Land or the Improvements, except as approved by Lender in writing, and no preliminary notice of lien or claim of lien affecting the Land or the Improvements has been filed in any county wherein the Land, in whole or in part, is located.

5.17 Financial Information. Each of Borrower and Guarantor has delivered to Lender a copy of current financial statements for year ended December 31, 2019, such financial statements shall include balance sheets, profit and loss statements and income statements.

5.18 Bond. If required by Lender, Borrower has delivered to Lender a performance bond satisfactory to Lender naming Lender as co-obligee and labor and material payment bonds in amounts satisfactory to Lender all issued by companies acceptable to Lender.

5.19 Construction Contract and Loan Proceeds. Borrower has delivered to Lender and USDA a fully executed copy of the Construction Contract which is a fixed cost contract acceptable to Lender and USDA. Borrower covenants and agrees that all Loan proceeds shall only be used in connection with acquisition, construction and development of the Mortgaged Property.

5.20 Schedule of Furnishings. Borrower has delivered to Lender a detailed schedule of all chattels, fixtures, equipment, furniture and furnishings which will be used in the operation of the Mortgaged Property and which shall be owned by Borrower.

5.21 Opinion of Counsel. Borrower has delivered to Lender an opinion from Borrower's counsel in form and content satisfactory to Lender. Such opinion shall include, among other things, an opinion that for federal income tax purposes, Borrower will be treated as a partnership and Borrower will be considered the owner of the Mortgaged Property.

5.22 Appraisal. Lender has received and Lender in its sole and absolute discretion has approved the Appraisal. The USDA has received and approved the Appraisal. The Appraisal shall be prepared by a certified general and independent M.A.I. appraiser satisfactory to Lender. The Appraisal shall conform with all regulatory requirements, including the Financial Institutions' Reform, Recovery, and Enforcement Act of 1989, as amended and the appraisal standards set forth in USPAP. At Lender's option, the Appraisal will be reviewed internally or by another appraiser acceptable to Lender to verify the contents of the Appraisal. Such review may include other factors which Lender or the reviewer considers material to the valuation of the Mortgaged Property. The review of the Appraisal by Lender or its reviewer shall be conclusive in determining the value of the Mortgaged Property for purposes of the Loan Documents.

5.23 Environmental Report; Endangered Species. Borrower has delivered to Lender the Environmental Report satisfactory to Lender and from an environmental consultant satisfactory to Lender which has errors and omissions insurance of not less than One Million Dollars (\$1,000,000.00). If the Environmental Report is addressed to a person or entity other than Lender, Borrower has delivered to Lender a "reliance letter" from the environmental consultant stating that lender is entitled to rely on the Environmental Report. To the best of Borrower's knowledge, the Mortgaged Property, as contemplated under the Plans, will not violate any state, federal, local or other law, regulation, statute, ordinance, order protecting any plant, animal, or species, including without limitation, any plant, animal or species identified under any federal, state, or local laws as an "endangered species".

5.24 Delivery of Loan Documents. All of the Loan Documents requested by Lender have been fully executed and the original executed documents delivered to Lender.

5.25 Regulatory Agreement. The Regulatory Agreement has been fully executed and duly recorded in the office of the County Clerk's Office of Fayette County, State of Texas.

5.26 Deed Restriction. The Deed Restriction has been fully executed and duly recorded in the office of the County Clerk's Office of Fayette County, State of Texas.

5.27 Recording and Filing of Loan Documents. All of the Loan Documents and Bridge Loan Documents which require filing or recording have been properly filed and recorded so that all of the liens and security interests granted to Lender in connection with the Loan will be properly created and perfected and be first priority liens on the Collateral.

5.28 Delivery of Certificates. Borrower has delivered to Lender the fully executed Contractor's Certificate and the Architect's Certificate.

5.29 Federal Tax Credit Agreements. Borrower has delivered to Lender copies of the fully executed Carryover Allocation Agreement.

5.30 Federal Tax Credit Application. Borrower has delivered to Lender a copy of the fully completed and signed low-income housing tax credit application pertaining to the Mortgaged Property which has been delivered to the Agency and upon which the Agency based the allocation of tax credits in the Carryover Allocation Agreement.

5.31 Inspection. Borrower has arranged for and Lender has completed, to its sole satisfaction, an inspection of the Mortgaged Property.

5.32 Management Contract. Borrower has entered into a Management Contract which is acceptable to Lender for the management of the Mortgaged Property and delivered to Lender a copy of the fully executed Management Contract.

5.33 Solvency. If requested by Lender, in its discretion, Borrower has delivered to Lender evidence satisfactory to Lender that there is not pending against Borrower, or any Guarantor, or any principals of Borrower, namely, partners, members or principal stockholders, a petition in bankruptcy, whether voluntary or otherwise, an assignment for the benefit of creditors, a petition seeking reorganization or arrangement under the Federal bankruptcy laws of the United States or of any state thereof, any other action brought under any such bankruptcy laws.

5.34 Limited Partnership Agreement. The Limited Partnership Agreement, in a form and substance acceptable to Lender and the USDA in their sole discretion, has been fully executed and delivered, and a copy delivered to Lender and the USDA, and the Limited Partnership Agreement is enforceable in accordance with its terms.

5.35 Architect and Engineer Reports. If requested by Lender, Borrower shall furnish to Lender, at Borrower's own and sole expense, a satisfactory architect and engineering report from the Architect which shall approve the Plans, with emphasis on adequacy of existing or proposed HVAC, plumbing, mechanical and electrical systems, elevator, structural components, and the existing Improvements structural tolerance to earthquakes.

5.36 Notice of Commencement. The Contractor has recorded a notice of commencement with respect to the Mortgaged Property in the office of the county clerk in which the Land is located. The form of the notice of commencement shall comply with all applicable Texas law.

5.37 Installment Funds. Upon satisfaction of all terms and conditions to the payment of the Installment Funds, Borrower shall cause the Limited Partner to disburse the Installment Funds, in a manner consistent with Lender's policies and procedures for loan disbursements, for

items acceptable to Lender associated with the acquisition of the Land, development of the Mortgaged Property, or construction of the Improvements in accordance with the terms and conditions of this Agreement.

5.38 Construction Monitoring Agreement. Limited Partner and Lender shall have entered into the Construction Monitoring Agreement, acceptable to Lender, relating to the manner, timing, and order of the disbursements of Loan proceeds, Installment Funds, and other capital contributions in connection with the construction of the Improvements.

5.39 USDA Loan Guarantee Commitment. A fully executed copy of the USDA Loan Guarantee Commitment and the Lender's Agreement have been delivered to Lender, the USDA has approved the Loan Documents and Lender's USDA certifications, and the USDA Loan Guarantee is in effect.

5.40 Lease Form. Borrower has delivered to Lender a copy of the form of lease for the residential rental units in the Mortgaged Property, which lease form is acceptable to Lender, in its sole discretion.

5.41 Management Plan. Borrower has delivered the Management Plan to Lender.

5.42 Carryover Allocation Agreement. Borrower has obtained a carryover allocation for the Mortgaged Property in an amount acceptable to Lender, in its sole discretion, and has delivered to Lender a copy of the fully executed Carryover Allocation Agreement.

5.43 Imposition Deposit Account. Borrower shall have established an imposition deposit account with Lender (or Lender's designee), in the name of Lender for the benefit of Borrower (the "Imposition Deposit Account") into which Borrower shall deposit funds as set forth hereafter. Officers of Lender shall be the only authorized signers on the Imposition Deposit Account.

5.43.1 Borrower shall deposit with Lender on the day monthly installments of principal or interest, or both, are due under the Note (or on another day designated in writing by Lender), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Lender the entire sum required to pay, when due (i) any water and sewer charges which, if not paid, may result in a lien on all or any part of the Mortgaged Property, (ii) the premiums for fire and other hazard insurance, rent loss insurance and such other insurance as Lender may require under Section 6.13 of this Agreement, (iii) taxes, and (iv) amounts for other charges and expenses which Lender at any time reasonably deems necessary to protect the Mortgaged Property, to prevent the imposition of liens on the Mortgaged Property, or otherwise to protect Lender's interests, all as reasonably estimated from time to time by Lender. The amounts deposited under the preceding sentence are collectively referred to in this Agreement as the "Imposition Deposits". The obligations of Borrower for which the Imposition Deposits are required are collectively referred to in this Agreement as "Impositions". The amount of the Imposition Deposits shall be sufficient to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added.

Lender shall maintain records indicating how much of the monthly Imposition Deposits and how much of the aggregate Imposition Deposits held by Lender are held for the purpose of paying Taxes, insurance premiums and each other obligation of Borrower for which Imposition Deposits are required. Any waiver by Lender of the requirement that Borrower remit Imposition Deposits to Lender may be revoked by Lender, in Lender's discretion, at any time upon notice to Borrower.

5.43.2 Imposition Deposits shall be held in an institution (which may be Lender, if Lender is such an institution) whose deposits or accounts are insured or guaranteed by a federal agency. Lender shall not be obligated to open additional accounts or deposit Imposition Deposits in additional institutions when the amount of the Imposition Deposits exceeds the maximum amount of the federal deposit insurance or guaranty. Lender shall apply the Imposition Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Unless applicable law requires, Lender shall not be required to pay Borrower any interest, earnings or profits on the Imposition Deposits. Borrower hereby pledges and grants to Lender a security interest in the Imposition Deposits as additional security for all of Borrower's obligations under this Agreement and the other Loan Documents. Any amounts deposited with Lender under this Section 5.43 shall not be trust funds, nor shall they operate to reduce the Indebtedness, unless applied by Lender for that purpose under Section 5.43.5 of this Agreement.

5.43.3 If Lender receives a bill or invoice for an Imposition, Lender shall pay the Imposition from the Imposition Deposits held by Lender. Lender shall have no obligation to pay any Imposition to the extent it exceeds Imposition Deposits then held by Lender. Lender may pay an Imposition according to any bill, statement or estimate from the appropriate public office or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.

5.43.4 If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Lender, the excess shall be credited against future installments of Imposition Deposits. If at any time the amount of the Imposition Deposits held by Lender for payment of a specific Imposition is less than the amount reasonably estimated by Lender to be necessary, Borrower shall pay to Lender the amount of the deficiency within fifteen (15) days after notice from Lender.

5.43.5 If an Event of Default has occurred and is continuing, Lender may apply any Imposition Deposits, in any amounts and in any order as Lender determines, in Lender's discretion, to pay any Impositions or as a credit against the Indebtedness. Upon payment in full of the Indebtedness, Lender shall refund to Borrower any Imposition Deposits held by Lender.

5.44 USDA O&M Reserve Account. Borrower shall have established with Lender, in the name of Lender for the benefit of Borrower, a USDA O&M reserve account for operating deficiencies of the Mortgaged Property (the "USDA O&M Reserve Account") at a mutually agreed upon financial institution, into which Borrower shall have deposited at least Eighty-Five Thousand Six Hundred and 00/100 Dollars (\$85,600.00). Officers of Lender shall be the only



authorized signers on the USDA O&M Reserve Account. Lender may disburse to Borrower funds from the USDA O&M Reserve Account, in Lender's discretion and upon Borrower's prior written request, to pay costs relating to Borrower's efforts to lease residential units within the Mortgaged Property (including, without limitation, costs related to advertising, signage and/or acquisition of equipment and furniture for the Mortgaged Property's leasing office, maintenance facility or model unit) or other costs allowed under applicable USDA requirements. All funds in the USDA O&M Reserve Account shall be released to Borrower promptly after the conclusion of the first full calendar year following the date on which Borrower has provided Lender with evidence satisfactory to Lender that not less than ninety percent (90%) of the units within the Mortgaged Property have been leased and occupied by qualified tenants under the USDA Section 538 program who have been paying rents equal to or greater than pro forma rents contained in the Appraisal for a consecutive period of a least ninety (90) days, and that such leases have been generating (on an annualized basis) not less than ninety percent (90%) of the Mortgaged Property's gross potential income based on such pro forma rents ("Lease-Up Requirement"); provided all other conditions set forth under 7.7D and 7.7E of Section 2 of Chapter 7 of the Rural Development Handbook have been satisfied.

5.45 Bridge Loan Documents. Fully executed copies of the Bridge Loan Documents have been delivered to Lender. Upon delivery of the Bridge Loan Documents to Lender, Borrower shall provide Lender with evidence satisfactory to Lender that the Bridge Loan Documents are the valid and binding obligation of Borrower, enforceable in accordance with their terms and are in full force and effect. Borrower shall have caused the Bridge Loan Lender to execute the Bridge Loan Subordination Agreement and such other agreements as may be necessary for the Bridge Loan Lender to subordinate any interest it may have in the Property to Lender's interest in the Property.

5.46 Bridge Loan Subordination Agreement. The Bridge Loan Subordination Agreement shall be fully executed and duly recorded in the County Clerk's Office of Fayette County, State of Texas. Upon the recording of the Bridge Loan Subordination Agreement, Borrower shall deliver to Lender a copy thereof.

## ARTICLE 6

### CONDITIONS PRECEDENT TO SUBSEQUENT DISBURSEMENTS

Lender's obligation to make any subsequent disbursements after the first disbursement shall be subject to the satisfaction of the following conditions:

6.1 Conditions in Article 5. Borrower has continued its satisfaction of all of the conditions precedent set forth in Article 5 of this Agreement.

6.2 Loan Current. No Event of Default has occurred and no other default has occurred under any other note or deed of trust executed by Borrower and payable to Lender, and no event has occurred and no condition exists which with the passage of time or giving of notice,

or both, would constitute an Event of Default or a default under any other note or deed of trust executed by Borrower and payable to Lender.

6.3 Representations and Warranties. All representations and warranties of Borrower, Guarantor, the Architect, and the Contractor in the Loan Documents are accurate in all respects.

6.4 First Lien. Lender shall continue to have a valid first lien upon the Collateral, including the Mortgaged Property, for the full amount of the Indebtedness subject only to the Schedule of Title Exceptions.

6.5 Materials. All materials and fixtures incorporated in or forming a part of the Improvements have been purchased so that the absolute ownership of such materials and fixtures shall become vested in Borrower immediately upon delivery thereof to the Land.

6.6 Contractors and Subcontractors. If requested by Lender, Borrower has delivered to Lender a then current list of each contractor, subcontractor and supplier providing labor, performing services or furnishing materials in connection with the design or construction of the Improvements.

6.7 Cost to Complete. Borrower has delivered to Lender a written estimate by Borrower of the cost of construction previously incurred and an estimate of the cost of completing the construction of the Improvements. Lender may require such additional certifications of "cost to complete" as Lender may deem necessary.

6.8 Damage. Neither the Improvements nor any other part of the Mortgaged Property has been materially injured or damaged by any casualty or condemned or threatened with condemnation, or in the event of such damage or condemnation, Lender has received insurance or condemnation proceeds sufficient in the judgment of Lender for the satisfactory restoration of the Improvements or any other affected part of the Mortgaged Property and to permit the completion of the Improvements prior to the Conversion Date.

6.9 Quality of Construction. Lender has determined, to Lender's satisfaction, that all work performed, was completed in a good and workmanlike manner and in compliance with the Plans and the Budget, and that the Improvements previously completed are of a value not less than the amount previously disbursed plus the amount requested. In order to make such determination, Lender may, at Lender's option, have the Mortgaged Property and the Improvements inspected by the Lender's Inspector who shall certify to Lender as to the status of the construction of the Improvements and that the quality of such construction is in a good and workmanlike manner. All fees charged with respect to such inspections shall be paid by Borrower.

6.10 No Mechanics Liens. Borrower has delivered to Lender evidence satisfactory to Lender as to whether or not Borrower or any of Borrower's agents has been served with, or threatened, either orally or in writing, with any notice that a lien may be claimed for any amounts unpaid for labor performed, services rendered or materials furnished by any person, firm or

corporation furnishing materials, providing services or performing labor of any kind in the design or construction of the Improvements.

6.11 Zoning and Other Compliance. Borrower has delivered to Lender evidence satisfactory to Lender that the Improvements are not being constructed in violation of any covenants, restrictions, building code requirements, zoning ordinances, requirements of any other lender, if applicable, or any other law, ordinance, regulation, rule or requirement of any lender or governmental authority having a lien upon or jurisdiction over the Mortgaged Property or the construction of the Improvements. In the event that any disbursement is requested with respect to the construction of a building on which no prior construction has been performed, Borrower has also delivered to Lender evidence satisfactory to Lender that all necessary building permits, other licenses, consents, approvals, and notices required with respect to the construction of such Improvements have been duly issued to Borrower.

6.12 Lien Waiver. If all the Loan proceeds then disbursed have not been paid directly to the contractors, subcontractors, persons, firms, or corporations furnishing materials, providing services or performing labor for the construction of the Improvements, Borrower has delivered to Lender unconditional mechanic's lien waivers in form and substance acceptable to Lender, in its sole discretion and receipts showing payment to the Contractor, with respect to the then requested disbursement and all prior disbursements, and all other contractors, subcontractors, persons, firms, or corporations furnishing materials, providing services or performing labor for the construction of the Improvements with respect to all prior disbursements.

6.13 Insurance.

6.13.1 Borrower shall keep the Improvements insured at all times against such hazards as Lender may from time to time require, which insurance shall include but not be limited to coverage against loss by fire and allied perils, general boiler and machinery coverage, and business income coverage. Lender's insurance requirements may change from time to time throughout the term of the Indebtedness. If Lender so requires, such insurance shall also include sinkhole insurance, mine subsidence insurance, earthquake insurance, commercial general liability insurance, workers' compensation insurance and such other liability, errors and omissions and fidelity insurance coverages and, if the Mortgaged Property does not conform to applicable zoning or land use laws, building ordinance or law coverage. If any of the Improvements is located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as an area having special flood hazards, and if flood insurance is available in that area, Borrower shall insure such Improvements against loss by flood.

6.13.2 All premiums on insurance policies required under Section 6.13.1 of this Agreement shall be paid before they become past due, unless Lender has otherwise designated in writing. All such policies shall also be in a form approved by Lender. All policies of property damage insurance shall include a non-contributing, non-reporting mortgage clause in favor of, and in a form approved by, Lender. Lender shall have the right to hold the original policies or duplicate original policies of all insurance required by Section 6.13.1 of this Agreement.

Borrower shall promptly deliver to Lender a copy of all renewal and other notices received by Borrower with respect to the policies and all receipts for paid premiums. At least thirty (30) days prior to the expiration date of a policy, Borrower shall deliver to Lender the original (or a duplicate original) of a renewal policy in form satisfactory to Lender.

6.13.3 All insurance policies and renewals of insurance policies required by Section 6.13.1 of this Agreement shall be in such amounts and for such periods as Lender may from time to time require, and shall be issued by insurance companies satisfactory to Lender.

6.13.4 Borrower shall comply with all insurance requirements and shall not permit any condition to exist on the Mortgaged Property that would invalidate any part of any insurance coverage that this Agreement requires Borrower to maintain.

6.13.5 In the event of loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. Borrower hereby authorizes and appoints Lender as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of property damage insurance, to appear in and prosecute any action arising from such property damage insurance policies, to collect and receive the proceeds of property damage insurance, and to deduct from such proceeds Lender's expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 6.13 shall require Lender to incur any expense or take any action. Lender may, at Lender's option, (1) hold the balance of such proceeds to be used to reimburse Borrower for the cost of restoring and repairing the Mortgaged Property to the equivalent of its original condition or to a condition approved by Lender (the "Restoration"), or (2) apply the balance of such proceeds to the payment of the Indebtedness, whether or not then due. To the extent Lender determines to apply insurance proceeds to Restoration, Lender shall do so in accordance with Lender's then-current policies relating to the restoration of casualty damage on similar multifamily properties.

6.13.6 Lender shall not exercise its option to apply insurance proceeds to the payment of the Indebtedness if all of the following conditions are met: (1) no Event of Default (or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing; (2) Lender determines, in its discretion, that there will be sufficient funds to complete the Restoration; (3) Lender determines, in its discretion, that the rental income from the Mortgaged Property after completion of the Restoration will be sufficient to meet all operating costs and other expenses, Imposition Deposits, deposits to reserves and loan repayment obligations relating to the Mortgaged Property; (4) Lender determines, in its discretion, that the Restoration will be completed before the earlier of (A) one year before the maturity date of the Note or (B) eighteen (18) months after the date of the loss or casualty; and (5) upon Lender's request, Borrower provides Lender evidence of the availability during and after the Restoration of the insurance required to be maintained by Borrower pursuant to this Section 6.13.

6.13.7 If the Mortgaged Property is sold at a foreclosure sale or Lender acquires title to the Mortgaged Property, Lender shall automatically succeed to all rights of Borrower in and to any insurance policies and unearned insurance premiums and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

6.14 Foundation and Final Surveys. If the footings, foundation, and all underground utilities of any building to be constructed upon the Land have been completed, Borrower has delivered to Lender a Survey completed in accordance with the requirements of this Agreement and the standards established most recently by ALTA/NSPS, certified by a licensed surveyor, or such other evidence as may be acceptable to Lender and the USDA, showing such footings, foundation, and underground utilities as constructed upon the Land to be entirely within the boundary lines of the Land showing the actual, on the ground location of the footings, foundation, and underground utilities of the Improvements, and showing that the footings, foundation, and underground utilities do not encroach upon any easement, and are not in violation of any covenants, conditions or restrictions of record, or of any law or regulation of any public authority.

6.15 Building Permits and Other Licenses and Permits. Borrower has delivered to Lender copies of all building permits and other licenses and permits required for the construction of the Improvements.

6.16 Leases. Lender has approved the form of the Leases for the Mortgaged Property.

## ARTICLE 7

### COVENANTS OF BORROWER

Borrower agrees and covenants with Lender as follows:

7.1 Commencement and Completion. Borrower shall commence construction of the Improvements no later than ten (10) days from the Closing Date, and shall complete the construction of the Improvements with due diligence in accordance with this Agreement, and applicable USDA laws and regulations, deliver to Lender a certificate of completion with respect to the Improvements and an unconditional certificate of occupancy from the municipality in which the Mortgaged Property is located with respect to the Improvements, and otherwise satisfy the final disbursement requirements set forth in this Agreement and applicable USDA laws and regulations no later than November 1, 2022 (the "Completion Date"). The Completion Date may be extended at Borrower's option for an additional six (6) months, provided Borrower gives Lender prior written notice thereof and that at the end of such six (6) month period, Borrower has complied with all requirements imposed by the USDA to cause the USDA Loan Guarantee to continue into the term phase of the Loan. If Borrower extends the Completion Date in accordance with this Section 7.1, Borrower will remain obligated to pay any extension fee for the Conversion Fee contained in Section 3(b) of the Note. The certificate of completion must (i) be issued by the Architect, Contractor and Borrower, (ii) certify that all work called for in the Plans,

and any changes or amendments thereto approved by Lender, have been satisfactorily completed in a good and workmanlike manner, and (iii) be acceptable to the USDA. All construction shall be in compliance with the Plans and in compliance with the terms of this Agreement. Furthermore, all construction shall be performed in a good and workmanlike manner. Notwithstanding anything to the contrary in this Agreement, Lender and Borrower agree and acknowledge that the Contractor, not the Lender's Inspector, shall oversee the construction of the Improvements.

7.2 Modifications and Amendments. Except as hereinafter provided, no changes shall be made in the Plans without the prior written approval of Lender. Any requests for changes in the Plans other than minor changes involving less than \$10,000.00 cost (each change considered separately without reduction by cost savings or increase by other change) must be in writing signed by Borrower and the Architect and approved in writing by Lender. Borrower will not permit the performance of any work pursuant to any Change Order which will result in an increase of the contract price for the construction of the Improvements in excess of \$10,000.00, nor pursuant to any Change Order which, together with the aggregate of Change Orders previously executed by Borrower, will result in an increase or decrease in such contract price in excess of an aggregate amount of \$20,000.00 (computed prior to giving effect to such Change Order), unless, in either case, it shall have received the prior written approval of Lender to such Change Order. Each such computation will be made prior to giving effect to any costs savings in such Change Order.

7.3 Assignment. Except as otherwise allowed under Section 8.9 of the Security Instrument, Borrower shall not, without the prior written consent of Lender and the USDA, mortgage, assign, convey, transfer, sell or otherwise dispose of or encumber Borrower's interest in the Mortgaged Property or any part of the Mortgaged Property or the income to be derived from the Mortgaged Property (collectively "Transfer"). The Loan was approved in reliance upon Borrower's credit, financial capacity and property management expertise. Accordingly, except as otherwise allowed under Section 8.9 of the Security Instrument, in the event Borrower or its successors in interest, shall Transfer the Mortgaged Property, or any part thereof, or any interest therein without the prior written consent of Lender and the USDA, or be divested of the Mortgaged Property, the Loan shall, at the option of Lender, without demand or notice, become immediately due and payable. Except as provided below, nothing contained in this Section 7.3 shall be construed as an obligation by Lender or its assigns to approve any such Transfer.

7.3.1 Lender hereby consents to Transfers of the Limited Partner's partnership interests in Borrower, provided that the transferee (i) is not on the debarment list ("Debarment List") of the General Services Administration, an independent agency of the United States of America, (ii) has the financial capacity and agrees to make the capital contributions required under the Limited Partnership Agreement, and (iii) is an affiliate of the Limited Partner, *i.e.*, the transferee's sole managing member, managing general partner, or controlling shareholder is a wholly owned subsidiary of the Limited Partner, and has the right to manage the day-to-day business and affairs of the transferee without the requirement of consent of any other party. As used above, affiliate of Limited Partner means (i) any person directly or indirectly controlling,

controlled by or under common control with, the Limited Partner, (ii) a person owning or controlling ten percent (10%) or more of the outstanding voting or beneficial interests of the Limited Partner, (iii) any officer, director, partner, trustee or anyone acting in a substantially similar capacity as to the Limited Partner, or (iv) any person who is an officer, director, general partner, manager or managing member, trustee, or holder of ten percent (10%) or more of the voting securities or beneficial interests of any of the foregoing. Lender also hereby consents to the removal of the General Partner for cause as set forth in the Limited Partnership Agreement, provided Lender receives prompt written notice thereof. If the Limited Partner exercises its right to remove a General Partner, Lender shall not unreasonably withhold its consent to the admission of the substitute General Partner to the Borrower; provided that the substitute General Partner assumes all of the rights and obligations of the removed General Partner under all of the Loan Documents and otherwise meets Lender's underwriting guidelines. Any substitute General Partner which is an affiliate of the Limited Partner, or any entity in which the Limited Partner is a "controlling person" as defined in Section 20(a) of the Securities Exchange Act of 1934, as amended) or in which the Limited Partner is the (a) general partner, (b) managing member, (c) manager, or (d) limited partner or investor member owning fifty percent (50%) or more of the limited partner or investor membership interests in which limited partnership or limited liability company, as the case may be, shall be acceptable to Lender; provided that such entity has a net worth at least as great as the removed General Partner, a debt to equity ratio less than the removed General Partner, and is not on the debarment list of the General Services Administration, an independent agency of the United States of America. A replacement General Partner that is an affiliate of Limited Partner may transfer its general partner interest to another replacement General Partner that satisfies the conditions contained in this Section 7.3.1.

7.3.2 In addition to the conditions contained in this Section 7.3, as a condition to Lender giving its consent to any Transfer requiring Lender's consent (except for those Transfers for which Lender has given its pre-consent under Section 7.3.1 of this Agreement), Borrower, the transferor or the transferee shall first pay Lender (i) a review fee in the amount of \$3,000.00, and (ii) the amount of Lender's out-of-pocket costs (including reasonable attorneys' fees and costs) incurred in reviewing the Transfer request.

7.3.3 Borrower shall obtain prior written approval from the USDA for any Transfer of one hundred percent (100%) of the equity interests in Borrower to any individual or organization not previously identified as an equity owner of Borrower in the Limited Partnership Agreement or other ownership documents submitted to the USDA. Lender shall cooperate with Borrower in obtaining such approval from the USDA, provided Lender believes such Transfer will not increase the risk of Borrower failing to pay the Loan.

7.3.4 Borrower shall obtain prior written approval from Lender for the replacement of the General Partner.

7.4 Right of Inspection. Lender or Lender's agents shall at all times during the construction of the Improvements and at Borrower's expense (a) have the right of entry upon and have free access to the Mortgaged Property; (b) the right to inspect all work done, labor

performed and materials furnished; and (c) the right to inspect all books, contracts and records of Borrower relating thereto.

7.5 Correction of Work. Borrower shall, upon demand of Lender, correct any defect in the Improvements or any departure from the Plans not approved by Lender. The disbursement of any Loan proceeds shall not constitute a waiver of the right of Lender to require compliance with this covenant with respect to any such defects or departures from the plans or specifications not theretofore discovered by Lender.

7.6 Payment of Interest. Borrower, notwithstanding any other provision in this Agreement or in the Loan Documents, shall pay to Lender the payment of the interest on the Loan and payment of the real estate taxes and special improvement assessments on the Mortgaged Property as and when the same are due and payable.

7.7 No Encroachments. The Improvements shall be constructed entirely on the Land and will not encroach upon or overhang any easement or right-of-way, including, without limitation, any utility easements, nor upon the land of others, and when erected shall be wholly within any building restriction lines.

7.8 Insurance. Borrower shall provide and maintain, or cause to be provided and maintained, at all times, the insurance policies required under the Loan Documents, including, without limitation, Section 6.13 of this Agreement.

7.9 Security Agreements. No materials, equipment, furnishings, fixtures or articles of personal property located on the Mortgaged Property, or any other part of the Improvements which constitute a portion of the Collateral shall be purchased or installed under any security agreement or installment sales contract executed by Borrower wherein the right is reserved or accrues to any one to remove or repossess such property or to have a security interest superior to that in favor of Lender as evidenced by the Security Instrument to be duly executed in conjunction with the Loan. Borrower shall not execute any security agreement or installment sales contract on any materials, equipment, furnishings, fixtures or articles used in the construction or operation of the Improvements, or on articles of personal property located therein, so that the ownership thereof will not vest unconditionally in Borrower, free from encumbrances. Borrower shall deliver to Lender upon written request the contracts, bills of sale, statements, receipted vouchers and agreements under which Borrower claims title to such materials, fixtures or articles.

7.10 Taxes and Impositions. Borrower shall promptly pay and discharge all lawful taxes and assessments imposed upon the Mortgaged Property or upon Borrower before they become past due and delinquent in accordance with the procedures and upon the terms set forth in the Security Instrument.

7.11 Payment for Services. Borrower shall promptly pay for all services, labor and materials performed and delivered in connection with the construction of the Improvements and the installation of all equipment.



7.12 No Disposition or Merger. Borrower shall not enter into any merger or joint venture with any third party, or otherwise dispose of its assets other than in the ordinary course of Borrower's business.

7.13 Additional Debt or Guarantees. During the term of the Loan, Borrower shall not without the prior written consent of Lender create or incur or suffer to be created or incurred any encumbrance, mortgage, pledge, lien or charge of any kind upon the Mortgaged Property or the Collateral, except the liens created by the Loan Documents and Bridge Loan Documents. Borrower shall not guarantee any loans or assume any contingent liabilities without the prior written consent of Lender.

7.14 Books and Records. Borrower shall keep and maintain at all times at the Mortgaged Property or the management agent's offices, and upon Lender's request shall make available at the Mortgaged Property, complete and accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the operation of the Mortgaged Property, and copies of all written contracts, Leases, and other instruments which affect the Mortgaged Property. The books, records, contracts, Leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender.

7.15 Financial Reporting.

7.15.1 Borrower covenants that it shall provide Lender with such financial statements and reports as Lender may reasonably request, and that such statements and reports shall be prepared in accordance with accounting standards acceptable to Lender and consistent with those financial statements previously provided by Borrower and accepted by Lender, consistently applied and shall fully and fairly represent Borrower's financial condition and the results of its operations for the period or periods covered. As to all financial statements and reports which Borrower has furnished or may in the future furnish to Lender, Borrower acknowledges and agrees that it has a fiduciary duty to ensure that such statements and reports are accurate and complete.

Until requested otherwise by Lender, Borrower shall provide the following financial statements and reports to Lender:

7.15.1.1 Annual financial statements prepared, in form and substance acceptable to Lender, and in accordance with generally accepted government auditing standards consistently applied, within ninety (90) days after the end of each fiscal year of Borrower, together with Borrower's certification that the financial statements have been prepared in accordance with such standards and accurately represent the actual financial condition of Borrower as of the date of the financial statements, and accurately represent the results of operations for the period covered.

7.15.1.2 Annual tax returns for each tax year of Borrower to be delivered to Lender within thirty (30) days of the date of filing of the return. The annual tax returns shall

include a certification by Borrower that each annual tax return is accurate, not misleading, and prepared in accordance with applicable law.

7.15.1.3 A rent schedule for the Mortgaged Property showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable for the current month, the date through which rent has been paid, and any related information requested by Lender' to be delivered to Lender within ninety (90) days after the end of each fiscal year of Borrower and at any other time upon Lender's reasonable request.

7.15.1.4 An accounting of all security deposits held for all Leases, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Lender to access information regarding such accounts, which accounting shall be delivered to Lender within ninety (90) days after the end of each fiscal year of Borrower and at any other time upon Lender's reasonable request.

7.15.1.5 A statement that identifies all owners of any interest in Borrower and the interest held by each, if Borrower is a limited partnership, all general and limited partners of Borrower, if Borrower is a corporation, all officers and directors of Borrower, and if Borrower is a limited liability company, all managers who are not members, which statement shall be delivered to Lender within ninety (90) days after the end of each fiscal year of Borrower and at any other time upon Lender's reasonable request.

7.15.1.6 A monthly property management report for the Mortgaged Property, showing the number of inquiries made and rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender upon Lender's request.

7.15.1.7 A balance sheet, a statement of income and expenses for Borrower and a statement of changes in financial position of Borrower for Borrower's most recent fiscal year upon Lender's request.

7.15.1.8 A statement of income and expense for the Mortgaged Property for the prior month or quarter if required by Lender.

7.15.2 Each of the statements, schedules and reports required by Section 7.15.1 of this Agreement shall be certified to be complete and accurate by an individual having authority to bind Borrower, and shall be in such form and contain such detail as Lender may reasonably require. Lender also may require that any statements, schedules or reports be audited at Borrower's expense by independent certified public accountants acceptable to Lender.

7.15.3 If Borrower fails to provide in a timely manner the statements, schedules and reports required by Section 7.15.1 of this Agreement, Lender shall have the right to have Borrower's books and records audited, at Borrower's expense, by independent certified public

accountants selected by Lender in order to obtain such statements, schedules and reports, and all related costs and expenses of Lender shall become immediately due and payable and shall become an additional part of the Indebtedness.

7.15.4 If an Event of Default has occurred and is continuing, Borrower shall deliver to Lender upon written demand all books and records relating to the Mortgaged Property or its operation.

7.15.5 Borrower authorizes Lender to obtain a credit report on Borrower at any time.

7.15.6 Borrower shall deliver to Lender, on or before each anniversary of the Closing Date, a compliance certificate in a form and substance acceptable to Lender, whereby Borrower certifies that no Event of Default has occurred under any of the Loan Documents, specifically including, but without limitation, a certification that the Mortgaged Property generally continues to qualify for all federal low income housing tax credits available to Borrower in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, that Borrower has performed all of its obligations and has strictly complied with all provisions of Section 42 of the Internal Revenue Code of 1986, as amended, and that only persons qualified under Section 42 of the Internal Revenue Code of 1986, as amended, have become tenants of the Mortgaged Property.

7.16 Disclosure of Financial and Other Information. Borrower hereby consents to Lender disclosing to any other lender who may participate in the Loan, any and all information, knowledge, reports, and records, including, without limitation, financial statements, relating in any manner whatsoever to the Loan and Borrower. Lender may also provide information regarding Borrower or the Mortgaged Property or both Borrower and the Mortgaged Property to third parties with an existing or potential prospective interest in the servicing, enforcement, evaluation, performance, purchase or securitization of the Indebtedness, including but not limited to trustees, master servicers, special servicers, rating agencies, and organizations maintaining databases on the underwriting and performance of multifamily mortgage loans. Borrower irrevocably waives any and all rights it may have under applicable law to prohibit such disclosure, including but not limited to any right of privacy.

7.17 Americans with Disabilities Act. To the extent applicable, the Improvements, when completed, will at all times be accessible to and usable by persons with disabilities pursuant to the accessibility requirements of the Americans With Disabilities Act (the "Act"), and all applicable regulations promulgated by the U.S. Architectural and Transportation Barriers Compliance Board, by the U.S. Department of Justice, and by all other applicable agencies. The Improvements will at all times comply with all accessibility requirements of the Act and regulations, together with the requirements of the Americans With Disabilities Act Accessibility Guidelines for Buildings and Facilities.

7.18 Permanent Financing. If the term of the Loan is extended and the Loan converted to an amortizing term loan in accordance with the terms of the Note, Borrower agrees to fully

satisfy all of the conditions to the extension of the Loan in accordance with the Note, and to strictly comply with all of the terms, provisions, and conditions contained in this Agreement to maintain the Loan as an amortizing term loan within the time and in the manner provided in this Agreement and the Note.

7.19 Required Notices. Borrower will give Lender prompt written notice of the following:

7.19.1 Any litigation or claims of any kind which might subject Borrower to any liability in an aggregate amount in excess of \$10,000.00, whether covered by insurance or not and any litigation involving the Mortgaged Property.

7.19.2 All complaints and charges made by any governmental agency affecting the Mortgaged Property or exercising supervision or control of Borrower or Borrower's business which may delay or require changes in construction of the Improvements or impair the security of Lender.

7.19.3 Any receipt of a notice of a default under any contract to which Borrower is a party or acceleration of any other indebtedness incurred by Borrower, provided, however, for any monetary default under a contract, only defaults in excess of an aggregate amount of \$5,000.00.

7.19.4 Any receipt of a notice of a default or an event or condition which constitutes an Event of Default or, with the passage of time or the giving of notice, or both, would constitute an Event of Default.

7.19.5 Any receipt of a notice of a default or event which with the passage of time or the giving of notice, or both, would constitute a default under the Carryover Allocation Agreement.

7.20 Mechanic's Liens. Borrower shall take the reasonable precautions to prevent the filing against the Mortgaged Property of any mechanic's, materialmen, or labor liens of any kind whatsoever, and if any such liens are filed, then Borrower shall take reasonable steps to promptly discharge any and all of such liens; provided, however, that Borrower may dispute and diligently contest in the manner set forth in the Security Instrument any lien filed against the Mortgaged Property so long as such contest does not materially impair Lender's security.

7.21 Reports. Borrower shall keep Lender fully informed as to the construction of the Improvements by delivering to Lender, upon the written request of Lender, copies of monthly operating statements (disbursements, receipts, etc.), and any other reports regarding the construction of the Improvements as Lender may reasonably require.

7.22 Expenses. Borrower agrees to pay to Lender, or to the persons entitled thereto, all title, escrow, recording and tax service charges, costs of survey, revenue stamps and mortgage tax, if any, insurance premiums, fees paid to and incurred by Lender's Inspector, the Architect

fees, engineering fees, brokerage commissions, appraisal fees, the inspection and legal fees of Lender, the cost of any reports prepared for or delivered to Lender, and any other expense, fee or charges in connection with negotiating, documenting, processing, consummating or servicing this Loan; provided, however, Borrower may temporarily defer payment of costs under this Section 7.22 which (a) Borrower disputes in good faith; (b) Borrower is diligently contesting in good faith; and (c) for which Borrower has posted a bond in at least an amount equal to one hundred percent (100%) of the cost plus interest and costs. Borrower agrees to pay all expenses, including reasonable attorneys' fees and other legal expenses, incurred by Lender in any bankruptcy proceedings of any type involving Borrower, Guarantor, the Mortgaged Property or the Loan Documents, including, without limitation, expenses incurred in modifying or lifting the automatic stay, determining adequate protection, use of cash collateral or relating to any plan of reorganization. Specifically, but without limitation, Borrower agrees to pay on the Closing Date all reasonable legal fees for services rendered by Lender's counsel in connection with the negotiation and preparation of the Loan Documents and preparation for and closing of the Loan. In the event the Loan is modified at the Borrower's request or such modification is necessitated as a result of Borrower's action or inaction, Borrower agrees to pay Lender a Three Thousand Dollar (\$3,000.00) loan modification fee, and all relating costs and expenses incurred by Lender in connection with the modification of the Loan, including, without limitation, all reasonable legal fees for services rendered by Lender's counsel.

7.23 Federal Low Income Housing Tax Credits. Borrower agrees to take all action necessary to develop and maintain the Mortgaged Property so that it will qualify for all federal low income housing tax credits available to Borrower in accordance with Section 42 of the Internal Revenue Code of 1986, as amended, and to perform all of its obligations and strictly comply with all provisions of Section 42 of the Internal Revenue Code of 1986, as amended, and all of the terms and conditions under the Carryover Allocation Agreement.

7.24 Management Fees. The management fee, including any incentives or bonuses to be paid from Mortgaged Property funds to the Property Manager or any other party, must be reasonable and customary for similar properties in the market area. The total management compensation shall be identified in the Management Contract.

7.25 Replacement Reserve Account. On or before the Conversion Date, Borrower and/or Lender shall have established an interest bearing replacement reserve account at a mutually agreed upon financial institution in the name of Lender for the benefit of Borrower (the "Replacement Reserve Account"). Officers of Lender shall be the only authorized signers on the Replacement Reserve Account. Borrower shall have deposited at least Eighteen Thousand and 00/100 Dollars (\$18,000.00) into the Replacement Reserve Account on or before the Closing Date. Commencing on the first day of the second full calendar month immediately following the Conversion Date, and continuing on the first day of each succeeding calendar month until the Maturity Date, Borrower shall deposit the amount of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) into the Replacement Reserve Account. To the extent required by the USDA, the amounts deposited into the Replacement Reserve Account may be modified if Lender determines that such amounts are insufficient to satisfy long term replacement needs relating to the Mortgaged Property. Lender shall from time to time disburse funds to Borrower from the Replacement Reserve Account, in Lender's discretion and upon Borrower's prior

written request, to pay for the replacement of items approved by Lender and allowed under applicable USDA requirements.

7.26 Construction in Accordance with Plans. The Improvements will be constructed strictly in accordance with the Plans and construction will be completed on or before the date set forth in Section 7.1 of this Agreement. If required by Lender, the Plans shall be approved by the Agency. Notwithstanding anything to the contrary in this Agreement, any Change Orders for the Mortgaged Property which decrease construction costs, the quality of construction of the Mortgaged Property, or the quality or number of any of the materials used in the construction of the Mortgaged Property must be approved in advance and in writing by Lender.

7.27 Construction in Accordance with Applicable Law. The construction and operation of the Mortgaged Property by Borrower, compliance by Borrower with the Loan Documents, and performance by Borrower of all of its obligations under the Loan Documents, will not violate any law, including, without limitation, usury laws, and will not violate any instruments or agreements and which are binding upon Borrower, including, without limitation, any HOME subgrant agreements, or any other agreement relating to the Mortgaged Property, and will not result in the breach of, or constitute a default under, any indenture, bank loan or credit agreement, mortgage, deed of trust or other agreement or instrument known to Borrower and to which Borrower is a party or by which its properties may be bound or affected.

7.28 Survey. Borrower shall deliver to Lender and the USDA upon completion of construction of the Improvements, a Survey, certified by a licensed surveyor, showing the Improvements, in place, street lines, access to public streets, encroachments and easements, and Borrower shall correct any violation unless waived by Lender and the USDA.

7.29 Architect and Engineer Reports. If requested by Lender, Borrower shall furnish to Lender, at its own and sole expense, a satisfactory architect and engineering report from the Architect. Such report shall approve the Plans, with emphasis on adequacy of existing or proposed HVAC, plumbing, mechanical and electrical systems, elevator, structural components, and the existing Improvements structural tolerance to earthquakes. Borrower agrees to further pay for such reports as requested during the course of construction as each draw is submitted. Borrower and Lender agree that the Architect shall be the inspecting architect.

7.30 Limited Partnership Agreement. Prior to the Conversion Date, Borrower shall not amend or allow to be amended the Limited Partnership Agreement with respect to making any capital contributions or installments, or any other provision which could have a material adverse effect on Lender, without the prior written consent of Lender, which consent will not be unreasonably withheld, conditioned or delayed.

7.31 Single Asset Entity. Borrower shall not, at any time, acquire any assets and shall not engage in any operations, except the Mortgaged Property, and assets which are directly related to the ownership and operation of the Mortgaged Property. Borrower agrees to take all action reasonably requested by Lender to maintain Borrower as a "single asset entity".

7.32 Installment Funds. Borrower shall cause the Limited Partner to disburse all Installment Funds in accordance with the terms and conditions of the Limited Partnership Agreement, for items acceptable to Lender associated with the acquisition of the Land, development of the Mortgaged Property, or construction of the Improvements in accordance with the terms and conditions of this Agreement.

7.33 Compliance with USDA Occupancy Requirements. At all times during the term of the Loan, the Mortgaged Property shall remain available for occupancy by low-income or moderate-income families or persons whose income, at the time of such families' or persons' initial occupancy, does not exceed one hundred fifteen percent (115%) of the median income of the area where the Mortgaged Property is located (as defined in HB-1-3565, paragraph 8.12 C.). After such initial occupancy, such families' or persons' income may exceed the limitations contained in this Section 7.33. Upon Lender's request, Borrower shall provide Lender with evidence satisfactory to Lender that Borrower is in compliance with this Section 7.33.

Borrower shall ensure to Lender's satisfaction that the monthly rent for any housing unit in the Mortgaged Property, including any tenant-paid utilities, will not exceed an amount equal to one twelfth (1/12th) of thirty percent (30%) of one hundred fifteen percent (115%) of the median income, adjusted for family size, in the area where the Mortgaged Property is located.

Borrower shall ensure to Lender's satisfaction that the average monthly rent for the Mortgaged Property, taking into account all rents for individual units in the Mortgaged Property, including any tenant-paid utilities, will not exceed one twelfth (1/12th) of thirty percent (30%) of one hundred percent (100%) of the median income, adjusted for family size, in the area where the Mortgaged Property is located.

Excepted from the requirements of this Section 7.33 are families or persons displaced as a result of the construction of the Improvements. This exception, however, does not apply to such families or persons who move into, but later vacate the Mortgaged Property after such vacation.

7.34 Compliance with Section 207(c) of the National Housing Act. Borrower shall ensure that the allocated portion of the Principal Amount for each residential unit to be constructed within the Mortgaged Property will not exceed the statutory requirements contained in Section 207(c) of the National Housing Act.

7.35 USDA Loan Guarantee Commitment and USDA Loan Guarantee. Borrower shall cooperate with Lender at all times during the term of the Loan to maintain the USDA Loan Guarantee Commitment and the USDA Loan Guarantee in full force and effect. Borrower shall not do anything to cause the USDA Loan Guarantee Commitment or the USDA Loan Guarantee to terminate.

7.36 Compliance with Regulatory Agreement and Deed Restriction. Borrower shall at all times during the term of the Loan comply with the requirements contained in the Regulatory

Agreement, the Deed Restriction, and the USDA's laws and regulations relating to management of the Mortgaged Property, including, without limitation, all requirements contained in 7 CFR § 3565, Subparts E and F.

## ARTICLE 8

### DISBURSEMENT OF LOAN PROCEEDS

8.1 Disbursement of Loan Proceeds. Borrower agrees that each Application for Disbursement submitted to Lender will be funded from the Installment Funds and/or the Loan substantially in accordance with and the priority set forth in the Draw Schedule and the Construction Monitoring Agreement. Borrower and Lender may amend the Draw Schedule from time to time by mutual agreement. All disbursements from the Installment Funds, and the Loan shall be made in a manner consistent with Lender's policies and procedures for disbursements for items acceptable to Lender identified in the Budget and in accordance with the terms and conditions of this Agreement, including those policies and procedures contained in this Article 8. Borrower shall cause the Limited Partner not to advance any portion of the Installment Funds to finance the construction of the Improvements except for items identified in an Application for Disbursement and approved by Lender consistent with this Article 8.

8.2 First Disbursement. Subject to Borrower's satisfaction of the conditions precedent to the first disbursement of the proceeds of the Loan as set forth in Article 5 of this Agreement, Lender, in its discretion at the closing of the Loan, disburse from the Loan Proceeds Account, a sufficient amount to pay the loan fees, attorneys' fees, permits and licenses fees, expenses and costs incurred by Lender with respect to the preparation of the Loan Documents and closing of the Loan, and such other reasonable closing costs as Lender may approve.

8.3 Subsequent Disbursements of Loan Proceeds. Subject to the satisfaction of the conditions precedent set forth in Article 6 of this Agreement and the terms of Section 5.37 and Section 8.1 of this Agreement, Lender shall make disbursements from the Loan Proceeds Account not more frequently than once per month in the manner set forth in Section 8.6 of this Agreement. The amount of the disbursement shall equal (a) the purchase price of all materials installed upon the Land and the cost of work completed on the Improvements approved by Lender during the period of time to which the scheduled disbursement is applicable based upon the percentage of Improvements completed under the Construction Contract on a line item basis; plus (b) interest accrued on amounts paid from the Loan Proceeds Account to the date of such disbursement; plus (c) such costs, fees and expenses which have been incurred and/or paid for by Borrower which are set forth in the Budget or otherwise approved by Lender, less (d) any Retainage. The amount of such disbursements may include, at the sole discretion of Lender, the total purchase price of materials delivered to, stored on and properly secured upon the Mortgaged Property in a manner acceptable to Lender for later installation of the Improvements provided the lien of the Loan Documents shall have attached. If approved by Lender, Borrower shall provide satisfactory evidence of ownership, storage, security, and insurance, and shall execute, or cause to be executed, such other documents as Lender may require to insure that the



lien of the Loan Documents is perfected for any such materials for which payments shall have been requested. Lender shall have no obligation to disburse for developer fees from the Loan proceeds.

8.4 Use of Loan Proceeds. The Loan proceeds shall be disbursed only in connection with construction of the Improvements in accordance with the provisions of this Agreement and shall be used for the payment of such items as set forth in the Budget. Notwithstanding the foregoing, nothing contained herein shall be construed to prevent or restrict Lender, upon the occurrence of an Event of Default, from applying the Loan proceeds in any manner consistent with the provisions of the Loan Documents without regard to the allocation set forth in the Budget.

8.5 Conditions Precedent to Subsequent Disbursements of Loan Proceeds. Lender shall have no obligation to make any subsequent disbursements of the Loan proceeds after the first disbursement described in Section 8.2 of this Agreement, unless all of the following conditions precedent are satisfied at the time of each disbursement:

8.5.1 All of the conditions set forth in Article 6 of this Agreement have been fully satisfied in Lender's reasonable discretion;

8.5.2 Borrower shall have complied with all of its covenants and agreements contained in this Agreement and the Loan Documents and Borrower's representations and warranties contained in any of those documents shall be true as of the date of disbursement as if first made on that date;

8.5.3 The Improvements are being and have been constructed in a good faith and workmanlike manner substantially in accordance with the Plans and the latest estimate of construction costs approved by Lender;

8.5.4 In the event that the latest estimate of construction costs approved by Lender shall exceed the Budget, Borrower shall have deposited funds with Lender in accordance with the requirements of this Agreement;

8.5.5 The Improvements shall not have been materially damaged by any casualty, unless Lender shall have received insurance proceeds in an amount Lender deems to be sufficient for complete repair of the damage and that when the amount is added to the undisbursed balance of the Loan Proceeds Account and any Retainage, the total thereof shall be sufficient for completion of the Improvements in all material respects in accordance with the Plans and the latest estimate of construction costs prior to the Completion Date;

8.5.6 The Guaranty shall be in full force and effect, and Lender shall not have received notice of dishonor of the Guaranty by Guarantor; and

8.5.7 In the case of the final disbursement, Lender shall have received a copy of the certificate or certificates of occupancy, or such other approval as may be applicable, issued

by the appropriate governmental authorities for the Mortgaged Property and the Improvements in their entirety as required by the Plans.

Borrower does hereby agree that Borrower's submittal of each Application for Disbursement shall constitute Borrower's covenant with Lender that each condition precedent to such disbursement shall be satisfied at the time of delivery of the Application for Disbursement to Lender, which covenant by Borrower shall be binding on Borrower in the same manner and with the same effect as if Borrower specifically executed a certification as to its compliance with each condition precedent as part of each request for disbursement. All conditions required herein shall be for the benefit and protection of Lender and no other party. Lender may waive any of the foregoing conditions with respect to any or all disbursements, but such waiver as to any disbursement shall not constitute a waiver as to future disbursements.

8.6 Manner of Disbursement. The proceeds of the Loan shall be disbursed once each calendar month, as follows:

8.6.1 Disbursements will be made on the 5<sup>th</sup> or 25<sup>th</sup> day of each month or the next business day if the 5<sup>th</sup> or 25<sup>th</sup> is a Saturday, Sunday or bank holiday. Not less than seven (7) business days prior to the date of any requested disbursement, Borrower shall deliver to Lender the following:

8.6.1.1 An Application for Disbursements and sworn statement from Contractor and Borrower on a form prescribed by Lender setting forth the payee's identity and address, an itemization of the work performed or material supplied, the various amounts so requested, a certification from Borrower that all proceeds of the Loan theretofore advanced have been spent in accordance with the draw request applicable thereto, and that the Improvements have been and are being constructed in accordance with the Plans;

8.6.1.2 An Authorization to Disburse signed by Borrower;

8.6.1.3 A certification from Borrower identifying all Contractors and subcontractors and suppliers who have provided services or materials for the Improvements and who are entitled to any of the proceeds of the scheduled disbursement, together with such supporting invoices as Lender may reasonably request;

8.6.1.4 Lien waivers, satisfactory to Lender, from the Contractor and all subcontractors and suppliers who have provided services or materials through the date of the previous draw request;

8.6.1.5 Certifications from the Lender's Inspector, in such form as the Lender may reasonably request, covering an inspection made more than seven (7) days prior to the date of the requested draw, and stating, at least, that (a) the Improvements have been and are being constructed in accordance with the Plans, (b) all materials for which payment is requested have been delivered to and installed upon the Mortgaged Property, (c) title has vested in Borrower, (d) the lien of the Loan Documents has attached thereto, (e) the Improvements have

been constructed in accordance with the Plans, and (f) all inspections or approvals of the Mortgaged Property required to be made by any engineer, municipality or other person or entity pursuant to the terms of this Agreement or otherwise have been made; and (g) Lender's Inspector has reviewed and approved Borrower's actions and the construction of the Improvements with respect to all environmental and compliance issues.

8.6.1.6 A CLTA Form 122 Date Down Endorsement to the Title Policy insuring that there are no liens, encumbrances or other exceptions to the title affecting the Mortgaged Property, except the Schedule of Title Exceptions;

8.6.1.7 Borrower's written statement requesting payment of any nonconstruction items, together with full detail as to amount, nature and payee and with supporting bills and invoices or such other evidence thereof as Lender may request; and

8.6.1.8 A certification from Borrower that it has given Lender written notice of all changes to the Plans and Budget.

8.6.2 Either on the 5<sup>th</sup> or 25<sup>th</sup> day of each month or the next business day if the 5<sup>th</sup> or 25<sup>th</sup> is a Saturday, Sunday or bank holiday, but not less than seven (7) business days after receipt of all of the documents to be delivered pursuant to Section 8.6 of this Agreement, Lender shall pay the amounts on the Application for Disbursements as approved by Lender and as determined pursuant to Section 8.3 of this Agreement, at Lender's sole option (i) to the Contractor for disbursement in accordance with the Application for Disbursements, (ii) to the payees named in the Application for Disbursements, or (iii) to Borrower.

If, at any time, there shall exist an Event of Default or any event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, Lender may, in its sole discretion, refrain from making any disbursement or disburse directly to any person entitled to the proceeds of such disbursements.

8.7 Disbursement. The final disbursement of the Loan proceeds shall only be made when all of the conditions of this Section 8.7 have been fully satisfied. The final disbursement hereunder shall not be made before the expiration of thirty (30) days after receipt by Lender of the Certificate of Substantial Completion of the Architect and the following conditions have been fully satisfied: (a) completion of the Improvements in all respects, in accordance with the Plans and to the satisfaction of Lender, and the certification of Lender's Inspector and the Architect certifying the same; (b) delivery to Lender of evidence satisfactory to Lender that all project costs, including construction and "soft" costs have been or will be paid; (c) delivery to Lender of evidence satisfactory to Lender that the Improvements have been inspected and approved in all respects as required by the municipality or county in which the Mortgaged Property is located, specifically including delivery to Lender of an unconditional certificate of occupancy issued by the proper public authority as to all Improvements; (d) delivery to Lender of appropriate evidence that the Improvements are in compliance with all applicable building, zoning and other governmental codes and regulations; (e) delivery to Lender of mechanic's lien waivers

satisfactory to Lender, in its sole discretion, showing payment in full to all contractors, subcontractors, persons, firms or corporations furnishing materials or performing labor or service for the construction of the Improvements; and (f) delivery to Lender of evidence that all requisite licenses and approvals that may be required so as to permit the use and operation of the Mortgaged Property for the intended purposes and any necessary or incidental uses have been issued, which evidence may, at Lender's option, be in the form of an engineer's certificate certifying the same.

## 8.8 Cessation of Disbursement.

8.8.1 Failure to Comply with Loan Documents. In addition to any other rights and remedies available to Lender, Lender shall not be obligated to disburse any of the Loan proceeds, unless Lender in its sole discretion elects to do so, if (a) at any time there has been filed a mechanic's lien or materialmen's lien against the Mortgaged Property which the Title Company will not insure against or for which a bond reasonably satisfactory to Lender has not been provided to protect Lender's interest and Collateral, (b) Borrower fails to comply with any of the other terms, conditions and provisions of this Agreement or those in any of the other Loan Documents, (c) Lender determines in its sole discretion that the work performed or materials furnished does not justify the disbursement requested, or if Lender determines that the work completed up to that particular stage of construction has not been completed in a timely, good and workmanlike manner, (d) a petition in bankruptcy is filed against Borrower, a petition in bankruptcy is filed by Borrower or any guarantor of the Loan, or a receiver or trustee of the property of Borrower is appointed, or if Borrower files a petition for reorganization under any of the provisions of the Federal bankruptcy laws of the United States or of any state thereof, or any law, State or Federal, or makes an assignment for the benefit of creditors or is adjudged insolvent by any State or Federal Court of competent jurisdiction, or (e) an Event of Default has occurred or Borrower is in default under any other loan executed by Borrower and payable to Lender.

8.8.2 Insufficient Funds. In the event that Lender, in its sole discretion, from time to time, determines that there are insufficient funds remaining from the proceeds of the Loan to enable Borrower to complete the construction of the Improvements in accordance with the Plans, to pay the costs and other expenses referred to in Section 8.9 of this Agreement, and to pay the interest payments projected for the remainder of the term of the Loan, as estimated by Lender, then Lender may refuse to make any further disbursements until Borrower shall have deposited into the Loan Proceeds Account such amounts as may be requested to enable Borrower to complete the construction of the Improvements and to pay the interest and the additional items. In addition to the foregoing and all other rights and remedies available to Lender, in the event Loan proceeds and the Installment Funds are insufficient to complete the Improvements and pay all costs in connection therewith, Borrower shall do one or a combination of the following, as directed by Lender: (a) deposit with Lender in cash the amount of the difference, which cash shall all be used to pay the costs of the Improvements, approved by Lender prior to the disbursement of any Loan proceeds; and/or (b) show paid bills satisfactory to Lender which clearly evidence that Borrower has paid costs in connection with the Improvements of not less

than the difference between the Improvements and the Loan proceeds and the Installment Funds available.

8.8.3 Disbursements after an Event of Default. Notwithstanding anything to the contrary in any of the Loan Documents, Lender may, in Lender's sole discretion, but without any obligation, make disbursements of Loan proceeds notwithstanding the occurrence of an Event of Default and any disbursement so made shall be deemed to have been made pursuant and subject to this Agreement.

8.9 Other Payments. At its discretion, Lender may pay either to itself or to a third party, as applicable, from the undisbursed proceeds of the Loan Proceeds Account any of the following:

8.9.1 Expenses relating to the Mortgaged Property, including all expenses described in Section 7.22 of this Agreement;

8.9.2 Any amounts necessary to clear title to the Mortgaged Property due and payable in connection with the terms and provisions hereof, or Loan Documents or which are due and payable to preserve or protect Lender's security interest in any Collateral;

8.9.3 Any other amounts Lender may reasonably determine are due and payable in connection with the terms and provisions thereof, or the Loan Documents, or which are due and payable to preserve or protect Lender's security interest in any Collateral;

8.9.4 Loan fees owed by Borrower to Lender during the term of the Loan; and

8.9.5 Interest, late charges, or other fees owed by Borrower to Lender.

Any payments made pursuant to this Section 8.9 shall, for all purposes, be deemed to be disbursements of the proceeds of the Loan.

8.10 Borrower's Indemnity of Lender. The requirements of this Agreement, and in particular this Article 8 (especially Section 8.6 of this Agreement), are for Lender's sole protection and benefit, and Lender does not assume, nor may it be construed or inferred to assume, any obligation to Borrower or others to supervise the disbursement process for Borrower's protection and benefit. Lender's only responsibility in this regard is to disburse the amounts set forth as directed by Borrower in an Application for Disbursements or Authorization to Disburse prepared and signed by Borrower or Contractor. Lender may, in its discretion, obtain or require lien waivers, releases or other documents to evidence receipt of payment of the Loan proceeds by contractors, subcontractors, materialmen, laborers or any other such party, and Borrower acknowledges that such documents shall be obtained for Lender's sole and absolute benefit and that Lender assumes no responsibility, express or implied, in any capacity whatsoever, to obtain such documents for or on behalf of Borrower. No action taken by Lender to obtain or require such documents in any instance shall impose on it any duty to obtain or require such documents at any future instance. Borrower agrees to hold harmless and indemnify

Lender from and against all claims, losses, damages, costs and expenses arising out of the disbursement process, including, but not limited to, those resulting from materialmen's or mechanic's lien.

8.11 Lender's Expenses. All expenses incurred by Lender in connection with the Loan Documents, including but not limited to expenses described in Section 7.22 of this Agreement and expenses incurred by or for Lender in conducting any inspections of the construction of the Improvements, and the expenses of any independent analysis of the cost of completing such construction shall be paid by Borrower to Lender. If not paid by Borrower upon demand, then Lender may deduct these charges from the Loan proceeds; provided, however, Borrower may temporarily defer payment of costs under this Section 8.11 which (a) Borrower disputes in good faith; (b) Borrower is diligently contesting in good faith; (c) for which Borrower has posted a bond in at least an amount equal to the cost plus interest and costs.

8.12 Retainage.

8.12.1 In its sole discretion, Lender may retain ten percent (10%) of all amounts to be disbursed from the Loan for direct costs of construction such as labor, material and supplies as a retainage (the "Retainage") pending Borrower's performance hereunder. In addition, Lender may, from time to time, establish and set aside a Retainage out of the undisbursed proceeds of the Loan, and from time to time increase, decrease or adjust the Retainage as it may estimate as necessary to cover the following items as they accrue or become payable prior to completion of the Improvements:

8.12.1.1 All unpaid expenses;

8.12.1.2 Payment of interest on the Loan that, as estimated by Lender, may accrue prior to repayment of the Loan;

8.12.1.3 Subject to the applicable provisions of the Security Instrument, payment of real estate taxes and assessments, as estimated by Lender that shall accrue with respect to the Mortgaged Property while the Loan is outstanding;

8.12.1.4 Costs incurred in connection with the construction of the Improvements, including without limitation the following:

8.12.1.4.1 Additional costs that might reasonably be incurred in reletting of any subcontract, in case reletting becomes necessary by reason of default of any subcontractor or otherwise;

8.12.1.4.2 Additional costs that might reasonably be incurred in connection with any Change Orders under any subcontract;

8.12.1.4.3 The costs of any work, material or labor for which a subcontract has not been let;

8.12.1.4.4 Additional costs that might reasonably be incurred if estimates furnished Lender are insufficient to cover actual costs of work incurred or to be incurred; and

8.12.1.4.5 The cost of Lender's title policy and all endorsements to the title policy issued in accordance with this Agreement.

8.12.1.5 Subject to applicable provisions of the Security Instrument, payment of premiums on insurance policies required to be furnished by Borrower hereunder.

8.12.2 No Interest Payable. Any amount retained by Lender as a Retainage shall not be deemed to be disbursed by Lender and therefore no interest shall accrue upon any Retainage until such time as such Retainage shall be actually disbursed by Lender.

8.12.3 Disbursement of Retainage. Subject to the other terms and provisions of this Agreement, Lender will disburse the undisbursed Retainage from the Loan Proceeds Account upon:

8.12.3.1 Receipt of the certificate of completion from Borrower and the Architect in form and substance acceptable to Lender;

8.12.3.2 Receipt of an occupancy permit, certificate of occupancy or other similar certification that the Improvements have been completed in accordance with applicable building codes and ordinances and are acceptable for the intended use thereof issued by the appropriate municipal and other governmental authority; and

8.12.3.3 Receipt of an endorsement to the Lender's title insurance policy insuring against all materialmen's and mechanic's liens.

## ARTICLE 9

### EVENTS OF DEFAULT

9.1 Event of Default. The occurrence of any one or more of the following shall constitute an Event of Default under this Agreement:

9.1.1 Default in Payment. Any failure by Borrower to pay or deposit when due any amount required by this Agreement, the Note, the Security Instrument or any other Loan Document, and such default continues for a period of ten (10) days after written notice by Lender to Borrower.

9.1.2 Representations and Warranties. Any representation or warranty made by Borrower in this Agreement or in any other Loan Document, is false or misleading in any material respect.

9.1.3 Fraud. Any fraud or material misrepresentation or material omission by Borrower, any of its officers, directors, trustees, general partners or managers or any guarantor in connection with (a) the application for or creation of the Indebtedness, (b) any financial statement, rent schedule, or other report or information provided to Lender during the term of the Indebtedness, or (c) any request for Lender's consent to any proposed action, including a request for disbursement of funds under any Loan Document.

9.1.4 Forfeiture. The commencement of a forfeiture action or proceeding, whether civil or criminal, which, in Lender's reasonable judgment, could result in a forfeiture of the Mortgaged Property or otherwise materially impair the lien created by this Agreement or Lender's interest in the Mortgaged Property and such action or proceeding is not dismissed within sixty (60) days following its commencement.

9.1.5 Improvements. The Improvements have not been completed and placed in service and ninety percent (90%) of all of the residential rental units within the Mortgaged Property are not occupied (or deemed occupied in accordance with the provisions of Section 42 of the Internal Revenue Code of 1986, as amended) by qualified tenants pursuant to written and fully executed lease agreements as required by Section 42 of the Internal Revenue Code of 1986.

9.1.6 Dissolution. Borrower becomes dissolved or terminated.

9.1.7 Receiver. A receiver, trustee, or custodian is appointed for any part of Borrower's property, or any part of Borrower's property is assigned for the benefit of creditors.

9.1.8 Impairment to First Lien. At any time the Security Instrument or any other applicable Loan Document creating a lien on any of the Collateral may be impaired by any lien, encumbrance or other defect other than the Schedule of Title Exceptions and such lien encumbrance or defect is not bonded over to Lender's satisfaction or removed within thirty (30) days of its creation.

9.1.9 Cessation of Construction. There is any cessation of construction of the Improvements for any period after the date construction shall commence in excess of fifteen (15) days, unless (a) the cessation of construction has been caused by conditions beyond the control of Borrower, including without limitation, acts of God or the elements, fire, flood, pandemics, strikes, labor disputes, delays in delivery of material and disruption of shipping; (b) Borrower has made adequate provision acceptable to Lender for the protection of materials stored on-site and for the protection of the Improvements to the extent then constructed against deterioration and against other loss or damage or theft; (c) Borrower has delivered to Lender satisfactory evidence that such cessation of construction will not adversely affect or interfere with the rights of Borrower under material contracts or subcontracts relating to the construction or operation of the Improvements; and (d) Borrower has delivered to Lender satisfactory evidence that the completion of the Improvements can be accomplished within the time permitted by Section 7.1 of this Agreement.



9.1.10 Judgment or Attachment. A judgment is entered against Borrower or any attachment be made for an amount in excess of \$50,000.00 and such judgment or attachment is not paid or otherwise fully satisfied within fifteen (15) days of the date it is entered; provided, however, such event shall not constitute an Event of Default so long as the judgment or attachment is bonded and appealed in good faith, and the judgment creditor's right to enforce its judgment or attachment is stayed.

9.1.11 Default Under Leases. Any default occurs by Borrower under a Lease and the default extends beyond the applicable notice and cure period under the Lease and the default has a material adverse effect on the Mortgaged Property or the financial condition of Borrower.

9.1.12 Bridge Loan Documents. Any material default occurs under any Bridge Loan Document and the default extends beyond the applicable notice and cure period under the subject Bridge Loan Document.

9.1.13 Default under Limited Partnership Agreement. Any breach of or default under the Limited Partnership Agreement which continues beyond the applicable cure period and which materially and adversely affects Lender.

9.1.14 Allocation Agreements. Any default occurs under the Carryover Allocation Agreement that continues beyond the applicable cure period after notice, if required under the applicable agreement.

9.1.15 Status of Guarantor. During the term of the Guaranty, Guarantor is dissolved and is not replaced by a replacement Guarantor acceptable to Lender within sixty (60) days of such dissolution; or if Guarantor is an officer, manager, partner or member of Borrower, and Guarantor resigns, withdraws or is terminated or otherwise discharged by Borrower as an officer, manager, partner, or member of Borrower and is not replaced by a replacement Guarantor acceptable to Lender within sixty (60) days of such event.

9.1.16 Disbursements. The Limited Partner, for any reason, fails to make a disbursement of Installment Funds proceeds in accordance with the Limited Partnership Agreement.

9.1.17 Insufficient Loan Proceeds. At any time an Application for Disbursement is delivered to Lender and there are insufficient collected, unencumbered Loan proceeds then remaining in the Loan Proceeds Account to pay the requested disbursement and Borrower has failed to perform Borrower's obligation under Section 8.8.2 of this Agreement.

9.1.18 Bankruptcy. A petition in bankruptcy is filed against Borrower, and such petition is not dismissed within ninety (90) days of filing, a petition in bankruptcy is filed by Borrower or any Guarantor of the Loan or a receiver or trustee of the property of Borrower is appointed; or if Borrower files a petition for reorganization under any of the provisions of the Bankruptcy Code or any law, State or Federal, or makes an assignment for the benefit of creditors or is adjudged insolvent by any State or Federal Court of competent jurisdiction.

9.1.19 Covenants. Any failure by Borrower to perform any of its obligations under this Agreement, as and when required, which continues for a period of thirty (30) days after Notice of such failure by Lender to Borrower. However, if Borrower's failure to perform its obligations as described in this Section 9.1.19 is of the nature that it cannot be cured within the thirty (30) day grace period but reasonably could be cured within ninety (90) days, then Borrower shall have additional time as determined by Lender in its discretion, not to exceed an additional sixty (60) days, in which to cure such default, provided that Borrower has diligently commenced to cure such default during the 30-day grace period and diligently pursues the cure of such default. However, no such Notice or grace periods shall apply in the case of any such failure which could, in Lender's judgment, absent immediate exercise by Lender of a right or remedy under this Agreement, result in harm to Lender, impairment of the Note or this Agreement or any other security given under any other Loan Document.

9.1.20 Default Under Other Loan Documents. Any failure by Borrower to perform any of its obligations as and when required under any Loan Document other than this Agreement which continues beyond the applicable cure period, if any, specified in that Loan Document. If no cure period is specified, Borrower shall have ten (10) days to cure a monetary default and thirty (30) days to cure a non-monetary default.

9.1.21 Guarantor. Any of the foregoing events occur concerning any Guarantor during the term of the Guaranty.

9.1.22 Construction. Construction of the Improvements is not completed on or before the Completion Date as set forth in Section 7.1 of this Agreement.

9.2 Notice and Cure Rights of Limited Partner. Lender shall provide copies of all notices to Limited Partner when such notices are provided to Borrower. The Limited Partner shall have the same rights to cure any default that with notice and the passage of time would give rise to an Event of Default as Borrower has under the Loan Documents. Lender agrees to accept Limited Partner's performance pertaining to such cures to the same extent as it would accept Borrower's performance pertaining to such cures.

Removal of the General Partner in accordance with the terms of the Limited Partnership shall constitute a cure of a default under Sections 9.1.2, 9.1.3, and 9.1.15, and of this Agreement if (i) the General Partner is replaced in accordance with Section 7.3.1 of this Agreement, (ii) the event or occurrence that caused the applicable default has not and will not materially and adversely affect the Collateral, (iii) the event or occurrence that caused the applicable default has not and will not materially and adversely affect Borrower's cash flow or debt service, (iv) the default has not and will not result in the revocation of the USDA Loan Guarantee, and (v) if the default occurs under Section 9.1.15 of this Agreement, a new guarantor, acceptable to Lender, executes a new guaranty of the Loan in substantially the same form as the Guaranty.

## ARTICLE 10

### REMEDIES

10.1 Termination and Acceleration. Upon the occurrence of an Event of Default under this Agreement, all obligations of Lender under this Agreement, and under the other Loan Documents at the election of Lender, shall cease and terminate and Lender may declare the entire unpaid Indebtedness immediately due and payable and may foreclose the Security Instrument and any other Collateral and may apply the undisbursed Loan proceeds against the Indebtedness owed to Lender by Borrower.

10.2 Rights and Remedies Cumulative. All rights, remedies, and powers conferred in this Agreement, and all other Loan Documents, are cumulative and not exclusive of any other rights or remedies, and shall be in addition to every other right, power, and remedy that Lender may have, whether specifically granted in this Agreement, any other Loan Document, or existing at law, in equity, or by statute; and any and all such rights and remedies may be exercised from time to time and as often and in such order as Lender may deem expedient. Any forbearance or delay by Lender in exercising any of its rights, remedies, and powers shall not be deemed to be a waiver and the exercise or partial exercise of any right, remedy, or power, and shall not preclude the further exercise of such right, remedy, and power and the same shall continue in full force and effect until specifically waived by an instrument in writing executed by Lender.

10.3 Completion by Lender. Upon the occurrence of an Event of Default:

10.3.1 Continuation of Mortgaged Property. Lender may, but without obligation and in addition to any other remedies which Lender may have under this Agreement or the other Loan Documents or, by statute or rule of law, enter upon the Mortgaged Property and construct, equip, and complete the construction of the Improvements in accordance with the Plans or such changes in the Plans as Lender may from time to time and in Lender's sole discretion deem appropriate, all at the risk, cost and expense of Borrower. Lender shall have the right at any and all times to discontinue any work commenced by Lender in respect to the Improvements or to change any course of action undertaken by Lender and shall not be bound by any limitations or requirements of time whether set forth in this Agreement or otherwise; Lender shall have the right and power at Lender's option to assume any construction contract made by or on behalf of Borrower in any way relating to the Improvements and take over and use all or any part or parts of the labor, materials, supplies and equipment contracted for by or on behalf of Borrower, including such equipment and supplies that have theretofore been delivered to the Mortgaged Property or stored in any facility for incorporation into the Mortgaged Property, all in the sole and absolute discretion of Lender.

10.3.2 Rights of Lender in Completion. In connection with the completion of the construction of the Improvements undertaken by Lender pursuant to the provisions of this Agreement, Lender may (a) engage builders, contractors, architects, engineers and others for the purpose of furnishing labor, materials and equipment in connection with the construction of the

Improvements; (b) pay, settle, or compromise all bills or claims which may become liens against the Mortgaged Property, or which have been or may be incurred in any manner in connection with the construction, completion and equipping of the Improvements or for the discharge of liens, encumbrances, or defects in the title of the Mortgaged Property; (c) use all or any portion of the undisbursed Loan proceeds; (d) take such action as Lender may determine to protect the Improvements or the supplies delivered for incorporation into the Improvements; or (e) charge a fee for services rendered in connection with any of the foregoing.

10.3.3 Liability of Borrower. Borrower shall be liable to Lender for all sums paid or incurred by Lender for the completion of construction and equipping the Improvements, whether the same shall be paid or incurred pursuant to provisions of this Section 10.3.3 or otherwise and all payments made or liabilities incurred by Lender under this Agreement of any kind whatsoever, including reasonable attorney fees shall be paid by Borrower to Lender upon demand with interest at the rate set forth in the Note to the date of payment to Lender and all of the foregoing, including interest, shall be deemed and shall become part of the Indebtedness.

10.3.4 Attorney-in-Fact. For purposes of this Section 10.3 and upon the occurrence of an Event of Default, Borrower hereby irrevocably constitutes and appoints Lender Borrower's true and lawful attorney-in-fact to execute, acknowledge and deliver any instruments and to do and perform any act such as referred to in this Section 10.3 in the name and on behalf of Borrower. This power of attorney is irrevocable and is coupled with an interest.

## ARTICLE 11

### MISCELLANEOUS

11.1 Non-Waiver. No advance of Loan proceeds under this Agreement shall constitute a waiver of any of the conditions to be performed by Borrower and in the event Borrower is unable to satisfy any such conditions Lender shall not be precluded from declaring such failure to be an Event of Default.

11.2 Derivative Rights. Any obligation of Lender to make disbursements under this Agreement is imposed solely and exclusively for the benefit of Borrower and no other person, firm or corporation shall, under any circumstances, be deemed to be a beneficiary of such condition, nor shall it have any derivative claim or action against Lender.

11.3 Lender's Obligation. Inspections and approvals of the Plans, the Improvements, and the workmanship and materials used therein by Lender or Lender's Inspector shall not constitute, in any way, a warranty by Lender as to the technical sufficiency or adequacy of such Plans, workmanship, materials or the soil conditions, or any construction on the Mortgaged Property, and shall not impose any responsibility or liability of any nature whatsoever on Lender and shall be for the sole benefit of Lender. Lender's sole obligation under the Loan Documents is to make the disbursements, if and to the extent required by this Agreement.

11.4 Survival. All representations, warranties and covenants by Borrower shall survive the Loan and the making of the disbursements under the Loan. The provisions of this Agreement shall be binding upon Borrower and Borrower's successors and assigns and inure to the benefit of Lender and Lender's successors and assigns.

11.5 Conflict. The Note, Security Instrument and all other Loan Documents shall be subject to all the terms, covenants, conditions, obligations, stipulations and agreements contained in this Agreement. In the event there is any conflict between the terms and conditions of this Agreement, the Note, Security Instrument, or any other Loan Document, this Agreement shall prevail.

11.6 Assignment. Lender may assign the Loan Documents, in whole or in part, to any other person, firm or corporation provided that all provisions of this Agreement shall continue to apply in conjunction with the other Loan Documents. In the event of such assignment, it shall be deemed to have been made in pursuance of this Agreement and not to be a modification of this Agreement, and the disbursements and advances subsequently made shall be governed by the Loan Documents. Borrower shall not assign this Agreement, or any interest of Borrower in or to this Agreement, the Loan proceeds, or any of the Loan Documents without the prior written consent of Lender. Except as otherwise provided in Section 7.3 of this Agreement, any dissolution of Borrower or any transfer of any interest in the Borrower without the prior written consent of Lender shall be assumed to be an assignment in violation of this Section 11.6.

11.7 Sale of Note; Change in Servicer. The Note or a partial interest in the Note (together with this Agreement and the other Loan Documents) may be sold one or more times without prior notice to Borrower. A sale may result in a change of the loan servicer of this Loan. There also may be one or more changes of the loan servicer unrelated to a sale of the Note. If there is a change of the loan servicer, Borrower will be given notice of the change.

11.8 Publicity and Signs. Lender may, at its option, announce and publicize the source of the financing contemplated under this Agreement by means and media selected by Lender. Lender, at Lender's option, may deliver at the Mortgaged Property, signs for display indicating that Lender is providing financing for the Improvements. If signs are provided by Lender, Borrower agrees (subject to local ordinances):

11.8.1 To provide a prominent location for display for such signs; and

11.8.2 To cause the signs to be displayed at such a place by suitably affixing the sign to a structure on the site.

11.9 Notices. All notices, demands and other communications under or concerning this Agreement or the other Loan Documents shall be in writing. Each notice shall be addressed to the intended recipient at its address set forth below in this Section 11.9, and shall be deemed given on the earliest to occur of (i) the date when the notice is received by the addressee; (ii) the first Business Day after the notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery; or (iii) the third

Business Day after the notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. As used in this Section 11.9, the term "Business Day" means any day other than a Saturday, a Sunday or any other day on which Lender is not open for business.

Any person entitled to receive notice under this Agreement may change the address to which notices intended for it are to be directed by means of notice given to the other party in accordance with this Section 11.9. Each party agrees that it will not refuse or reject delivery of any notice given in accordance with this Section 11.9, that it will acknowledge, in writing, the receipt of any notice upon request by the other party and that any notice rejected or refused by it shall be deemed for purposes of this Section 11.9 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

Lender: Bonneville Mortgage Company  
111 Main, Suite 1600  
Salt Lake City, Utah 84111  
Attn: Brent H. Peterson

With copies to: Kirton McConkie  
50 East South Temple, Suite 400  
Salt Lake City, Utah 84111  
Attn: John B. Lindsay

Borrower: La Grange Springs, LP  
404 East McKinney Avenue  
Albertville, Alabama 35950  
Attn: Jeff Beaver

With copies to: Coleman Talley, LLP  
109 South Ashley Street  
Valdosta, Georgia 31601  
Attn: Russell D. Henry

General Partner: La Grange Springs GP, LLC  
404 East McKinney Avenue  
Albertville, Alabama 35950  
Attn: Jeff Beaver

Investment Limited Partner: RAH Investor 288 LLC  
111 Great Neck Road, Suite 500  
Great Neck, New York 11021  
Attn: Morris P. Hershman

Special Limited Partner: Sterling Corporate Services LLC  
111 Great Neck Road, Suite 500  
Great Neck, New York 11021  
Attn: Morris P. Hershman

With copies to: Jones Walker LLP  
420 20<sup>th</sup> Street North, Suite 1100  
Birmingham, Alabama 35203  
Attn: Kelly Lewis and Brandon Hughey

Such addresses may be changed by notice to the other party given in the same manner provided in this Section 11.9.

11.10 Indemnification. Borrower agrees to pay, protect, defend, indemnify and hold harmless Lender for any and all claims and liabilities, and for damages which may be awarded or incurred by Lender, and for all reasonable attorney fees, legal expenses, and other out-of-pocket expenses incurred in defending such claims, arising from or related in any manner to the negotiation, execution, or performance by Lender, or the failure of performance of others, of this Agreement, the Loan Documents, or any of the agreements, documents, obligations, or transactions contemplated by this Agreement, including, without limitation, any claims, liabilities, or causes of actions related to any Hazardous Materials located on, in, or under the Mortgaged Property, but excluding any such claims based upon breach or default by Lender or gross negligence or willful misconduct of Lender. This indemnification shall survive the payment of the Loan, reconveyance of the Security Instrument, and termination of this Agreement.

Lender shall have the sole and complete control of the defense of any such claims. Lender is hereby authorized to settle or otherwise compromise any such claims as Lender in good faith determines shall be in its best interests.

Any indemnification amount owing to Lender pursuant to this Section 11.10 shall be secured by the Loan Documents and Collateral except that, notwithstanding anything to the contrary in this Agreement or the Loan Documents, any such indemnification amount owing to Lender shall not be secured in any way by any property on, in or under which any Hazardous Materials is located.

11.11 Terms. Whenever used in this Agreement, the singular shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

11.12 Joint and Several Liability. All obligations and liabilities of Borrower and Guarantor imposed in this Agreement, or in any of the other Loan Documents upon Borrower and Guarantor shall be joint and several.

11.13 Governing Law. This Agreement and all matters relating to this Agreement shall be governed by, construed and interpreted in accordance with the laws of the State of Texas.

11.14 Money Laundering Activities. Neither Borrower nor any guarantor of the Loan is (or will be) a person with whom Lender is restricted from doing business under regulations of the Office of Foreign Asset Control (“OFAC”) of the Department of the Treasury of the United States of America (including, those Persons named on OFAC’s Specially Designated and Blocked Persons list) or under any statute, executive order (including, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and shall not engage in any dealings or transactions or otherwise be associated with such persons. In addition, Borrower hereby agrees to provide to Lender any additional information that Lender deems necessary from time to time in order to ensure compliance with all applicable laws concerning money laundering and similar activities.

11.15 WAIVER OF JURY. BORROWER AND GUARANTOR WAIVE THE RIGHT TO HAVE A JURY DETERMINE, ADVISE, OR RESOLVE ANY DISPUTE OR OTHER CLAIM BETWEEN OR AMONG THEM, OR ANY OF THEM, WITH RESPECT TO THE LOAN, THE LOAN DOCUMENTS, AND THE DUTIES AND OBLIGATIONS OF THE PARTIES THEREUNDER, WHETHER BASED ON PRINCIPLES OF CONTRACT, TORT, STATUTORY, OR OTHER LAW.

11.16 No Partnership. Nothing contained in this Agreement or in any of the other Loan Documents shall be construed as creating a joint venture or partnership between Borrower and Lender. There shall be no sharing of losses, costs and expenses between Borrower and Lender, and Lender shall have no right of control or supervision except as it may exercise its rights and remedies provided in the Loan Documents.

11.17 Relationship of Parties; No Third Party Beneficiary. The relationship between Lender and Borrower shall be solely that of creditor and debtor, respectively, and nothing contained in this Agreement shall create any other relationship between Lender and Borrower. No creditor of any party to this Agreement and no other person shall be a third party beneficiary of this Agreement or any other Loan Document. Without limiting the generality of the preceding sentence, (i) any arrangement (a “Servicing Arrangement”) between the Lender and any loan servicer for loss sharing or interim advancement of funds shall constitute a contractual obligation of such loan servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (ii) Borrower shall not be a third party beneficiary of any Servicing Arrangement, and (iii) no payment by the loan servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

11.18 Loan Servicing. All actions regarding the servicing of the Loan, including the collection of payments, the giving and receipt of notice, inspections of the Mortgaged Property, inspections of books and records, and the granting of consents and approvals, may be taken by the loan servicer unless Borrower receives notice to the contrary. If Borrower receives



conflicting notices regarding the identity of the loan servicer or any other subject, any such notice from Lender shall govern.

11.19 Attorneys' Fees. Upon the occurrence of an Event of Default, Lender may employ an attorney or attorneys to protect Lender's rights under this Agreement, and Borrower shall pay Lender reasonable attorneys' fees and costs actually incurred by Lender, whether or not action is actually commenced against Borrower by reason of such breach. Borrower shall also pay to Lender any attorneys' fees and costs incurred by Lender with respect to any insolvency or bankruptcy proceeding or other action involving Borrower or any guarantor as a debtor. If Lender exercises the power of sale contained in the Security Instrument or initiates foreclosure proceedings, Borrower shall pay all costs incurred and attorney fees and costs as provided in the Security Instrument.

11.20 Severability of Invalid Provisions. With respect to this Agreement and all other Loan Documents, any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction only, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

11.21 Setoff. In addition to any rights and remedies of Lender provided by law, if any Event of Default exists, Lender is authorized at any time and from time to time, without prior notice to Borrower, any such notice being waived by Borrower to the fullest extent permitted by law, to setoff and apply any and all deposits, general or special, time or demand, provisional or final, including without limitation all funds held in the Loan Proceeds Account, at any time held by Lender to or for the credit or the account of Borrower against any and all obligations of Borrower under the Loan or any of the Loan Documents, now or hereafter existing, irrespective of whether or not Lender shall have made demand under the Loan, or otherwise, or under any Loan Document and although such amounts owed may be contingent or unmatured. Lender agrees promptly to notify Borrower after any amounts owed may be contingent or unmatured. Lender agrees promptly to notify Borrower after any such setoff and application made by Lender; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights of Lender under this Section 11.21 are in addition to the other rights and remedies (including other rights of setoff) which Lender may have.

11.22 Counterparts. This Agreement may be signed in any number of counterparts, each of which shall be an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Agreement shall be sufficient for all purposes without producing or accounting for any other counterpart.

11.23 No Party Deemed Drafter. No party shall be deemed the drafter of this Agreement or any other Loan Document, and this Agreement and all other Loan Documents shall not be construed against either party as the drafter of the Agreement.

11.24 Integrated Agreement and Subsequent Amendment. The Loan Documents, and the other agreements, documents, obligations, and transactions contemplated by this Agreement, constitute the entire agreement between Lender and Borrower with respect to the subject matter of these agreements, and may not be altered or amended except by written agreement signed by Lender and Borrower. BORROWER IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENT BETWEEN LENDER AND BORROWER AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

All prior and contemporaneous agreements, arrangements and understandings between the parties to this Agreement as to the subject matter of this Agreement, are, except as otherwise expressly provided in this Agreement, rescinded.

*[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]*

BORROWER

**LA GRANGE SPRINGS, LP,**  
an Alabama limited partnership

By: La Grange Springs GP, LLC,  
an Alabama limited liability company  
Its: General Partner

By:   
Jeff Beaver  
Its: Manager

STATE OF ALABAMA )  
 ) : ss.  
COUNTY OF Marshall )

I, Terri Lacy, a Notary Public, in and for said County in said State, hereby certify that Jeff Beaver, whose name as Manager of La Grange Springs GP, LLC, an Alabama limited liability company, as General Partner of La Grange Springs, LP, an Alabama limited partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited partnership.

Given under my hand this the 16 day of November, 2020.

  
Notary Public

Print Name: Terri Lacy

My commission expires: 10-18-2023





The undersigned Guarantor hereby acknowledges and consents to the foregoing Construction and Term Loan Agreement, makes the representations, warranties and covenants set forth in Article 4 Guaranty, and agrees to all other applicable provisions of the Loan Documents.

GUARANTOR

**OLYMPIA CONSTRUCTION, INC.,**  
an Alabama corporation

By:   
Jeff Beaver  
Its: President

STATE OF ALABAMA                    )  
  : ss.  
COUNTY OF Marshall            )

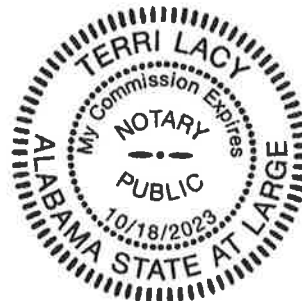
I, Terril Lacy, a Notary Public, in and for said County in said State, hereby certify that Jeff Beaver, whose name as President of Olympia Construction, Inc., an Alabama corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand this the 16 day of November, 2020.

  
Notary Public

Print Name: Terril Lacy

My commission expires: 10-18-23



## EXHIBIT A

### REAL PROPERTY DESCRIPTION

The real property referred to herein below is situated in the City of La Grange, County of Fayette, State of Texas and is described as follows:

BEING AN 8.000-ACRE (348,480 SQUARE FEET) TRACT OF LAND OUT OF THE FAYETTE COUNTY SCHOOL LAND SURVEY, ABSTRACT NO. 183 AND THE WILLIAM H. CARSON SURVEY NO. 21, ABSTRACT NO. 28, FAYETTE COUNTY, TEXAS, SAID 8.000-ACRE TRACT ALSO BEING OUT OF A CALLED 37.07-ACRE TRACT, DESCRIBED AS TRACT 2 CONVEYED FROM JOE A. MIHATSCH, JR. AND WIFE, LINDA A. MIHATSCH BY WARRANTY DEED DATED FEBRUARY 8, 2008, RECORDED IN VOLUME 1427, PAGE 480, DEED RECORDS OF FAYETTE COUNTY, TEXAS (D.R.F.C.T.), AND SAID 8.000-ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, WITH ALL BEARINGS BEING REFERENCED TO NORTH AMERICAN DATUM OF 1983, TEXAS COORDINATE SYSTEM, (2011 ADJUSTMENT, EPOCH 2010.00) SOUTH CENTRAL ZONE:

COMMENCING AT A FOUND 1/2-INCH IRON ROD BEING THE WEST CORNER OF A CALLED 21.96-ACRE TRACT CONVEYED TO EMMETT JOHNSON, JR. BY DEED EXECUTED JUNE 7, 1995, RECORDED IN VOLUME 925, PAGE 48, D.R.F.C.T. AND AN INTERIOR CORNER OF SAID 37.07-ACRE TRACT;

THENCE, SOUTH 07°38'25" WEST, ALONG THE WEST LINE OF SAID 21.96-ACRE TRACT AND THE EAST LINE OF SAID 37.07-ACRE TRACT, A DISTANCE OF 328.62 FEET TO A SET 1/2-INCH IRON ROD WITH RED CAP STAMPED "VICKREY PROP. COR.", FOR THE POINT OF BEGINNING AND THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE, SOUTH 07°38'25" WEST, CONTINUING ALONG THE WEST LINE OF SAID 21.96-ACRE TRACT AND THE EAST LINE OF SAID 37.07-ACRE TRACT, A DISTANCE OF 435.97 FEET TO A POINT AT A NON-TANGENT CURVE TO THE RIGHT IN THE EXISTING NORTH RIGHT-OF-WAY LINE OF FM 2145 (100-FOOT WIDE RIGHT-OF-WAY) AS DESCRIBED IN VOLUME 285, PAGE 323, D.R.F.C.T., BEING THE SOUTHWEST CORNER OF SAID 21.96-ACRE TRACT AND FOR THE SOUTHEAST CORNER OF SAID 37.07-ACRE TRACT AND THE HEREIN DESCRIBED PARCEL FROM WHICH A FOUND 1/2-INCH IRON ROD BEARS SOUTH 07°38'25" WEST, A DISTANCE OF 0.87 FEET;

THENCE, ALONG THE EXISTING NORTH RIGHT-OF-WAY LINE OF FM 2145 AND THE SOUTH LINE OF SAID 37.07-ACRE TRACT, THE FOLLOWING THREE (3) CALLS:

1. ALONG SAID NON-TANGENT CURVE TO THE RIGHT, AN ARC DISTANCE OF 549.70 FEET, WITH A RADIUS OF 1,859.90 FEET, A CENTRAL ANGLE OF 16°56'02", AND A CHORD BEARING AND DISTANCE OF SOUTH 68°10'21" WEST, 547.70 FEET TO A SET 1/2-INCH IRON ROD WITH RED CAP STAMPED "VICKREY PROP. COR." FOR A CORNER OF SAID 37.07-ACRE TRACT AND THE HEREIN DESCRIBED TRACT;

2. SOUTH 76°38'22" WEST, A DISTANCE OF 93.90 FEET TO A SET 1/2-INCH IRON ROD WITH RED CAP STAMPED "VICKREY PROP. COR.", FOR THE SOUTH CORNER OF SAID 37.07-ACRE TRACT AND THE HEREIN DESCRIBED TRACT;

3. NORTH 12°55'48" WEST, A DISTANCE OF 86.96 FEET TO A SET 1/2-INCH IRON ROD WITH RED CAP STAMPED "VICKREY PROP. COR." IN THE EXISTING EAST RIGHT-OF-WAY LINE OF US 77 (100-FOOT WIDE RIGHT-OF-WAY) AS DESCRIBED IN VOLUME 156, PAGE 535, D.R.F.C.T., FOR THE SOUTHWEST CORNER OF SAID 37.07-ACRE TRACT AND THE HEREIN DESCRIBED TRACT;

THENCE NORTH 16°40'03" EAST, ALONG THE EXISTING EAST RIGHT-OF-WAY LINE OF US 77 AND THE WEST LINE OF SAID 37.07-ACRE TRACT, A DISTANCE OF 742.86 FEET TO A SET 1/2-INCH IRON ROD WITH RED CAP STAMPED "VICKREY PROP. COR.", FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT FROM WHICH A FOUND TXDOT TYPE I MONUMENT BEARS NORTH 16°40'03" EAST, A DISTANCE OF 972.84 FEET FOR A CORNER OF SAID 37.07-ACRE TRACT;

THENCE SOUTH 73°19'57" EAST, INTO AND ACROSS SAID 37.07-ACRE TRACT, A DISTANCE OF 484.51 FEET TO THE POINT OF BEGINNING AND CONTAINING 8.000 ACRES (348,480 SQUARE FEET) OF LAND.

SAID 8.000 ACRE TRACT OF LAND ALSO BEING "LOT 1 BLOCK 1" ON THAT CERTAIN PLAT OF SURVEY ENTITLED "LA GRANGE SPRINGS, LP SUBDIVISION" PREPARED BY MICHAEL J. VANDERSTAPPEN, TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR #6594, AND RECORDED ON NOVEMBER 24, 2020 AS INSTRUMENT #20-07297 IN VOLUME 2, PAGE 284, IN THE PLAT RECORDS OF FAYETTE COUNTY, TEXAS.

**EXHIBIT B**  
**DRAW SCHEDULE**

(See Attached)





## MULTIFAMILY NOTE

AMOUNT \$4,280,000.00

Closing Date: November 13, 2020

FOR VALUE RECEIVED, the undersigned (“**Borrower**”) promises to pay to the order of Bonneville Mortgage Company, a Utah corporation, the principal sum of Four Million Two Hundred Eighty Thousand and 00/100 Dollars (\$4,280,000.00), with interest on the unpaid principal balance at the annual rate of three and thirty-two hundredths percent (3.32%).

1. **Defined Terms.** As used in this Note, (i) the term “**Lender**” means the holder of this Note, (ii) the term “**Loan Agreement**” means the Construction and Term Loan Agreement effective as of the Closing Date, and (iii) the term “**Indebtedness**” means the principal of, interest on, or any other amounts due at any time under, this Note, the Security Instrument or any other Loan Document, including prepayment premiums, late charges, default interest, and Lender’s Expenditures as defined in Section 19 of this Note. All capitalized terms used but not defined in this Note shall have the meanings given to such terms in the Loan Agreement.

2. **Address for Payment.** All payments due under this Note shall be payable at Bonneville Mortgage Company, 111 Main, Suite 1600, Salt Lake City, Utah, 84111, or such other place as may be designated by Notice to Borrower from or on behalf of Lender.

3. **Payment of Principal and Interest.** Principal and interest shall be paid as follows:

(a) Interest shall be payable on the first day of each month commencing on January 1, 2021, and continuing to and including the first day of the first month until the Maturity Date as hereafter defined. During the Extension Period (as hereafter defined), interest shall be included with principal in monthly installment payments. Checks will constitute payment only when collected. Checks will constitute payment only when collected.

(b) The Loan will mature on the first day of the first month following the Conversion Date’s (as defined hereafter) thirty-eighth (38th) anniversary date (“**Maturity Date**”), which shall not be later than November 1, 2060, whereupon the Indebtedness and all accrued and unpaid interest thereon shall be due and payable in full. The period commencing on the Conversion Date and ending on the Maturity Date is the “**Extension Period**”.

The Loan will be converted to an amortizing term loan (based on a forty (40) year amortization) on the first day of the first month after the following conditions have been fully satisfied (“**Conversion Date**”); provided such date is no later than November 1, 2022, unless Lender allows the Conversion Date to be extended as set forth below in this paragraph: (i) No Event of Default shall have occurred and no event has occurred nor does any condition exist which, with the passage of time or the giving of notice, or both, would constitute an Event of Default; (ii) Borrower shall have completed the Improvements (as defined in the Loan

Agreement) in compliance with the terms of the Loan Agreement; and (iii) Borrower shall have provided Lender with a date down endorsement to the Title Policy (as defined in the Loan Agreement) satisfactory to Lender, insuring that the Security Instrument shall remain in a first lien position against the Mortgaged Property as of the Conversion Date subject only to the Schedule of Title Exceptions. Borrower shall provide Lender with such evidence as the Lender may reasonably require to show that the conditions to the extension have been satisfied, specifically including, but without limitation, the delivery of a certificate of occupancy. Borrower's failure to satisfy the conditions contained in this Section 3(b) before November 1, 2022, shall constitute an Event of Default. In addition, if such conditions are not satisfied by November 1, 2022, and Lender waives such Event of Default, Borrower shall pay Lender an extension fee for each month or part thereof from November 1, 2022, until such conditions are satisfied. Such monthly fee will be in an amount equal to Ten Thousand Seven Hundred Dollars (\$10,700.00) and will be paid on November 1, 2022, and the first day of each month thereafter for which Lender elects to waive such Event of Default. Lender's acceptance of any monthly extension fee constitutes a waiver of such Event of Default only for the month for which the extension fee is paid and nothing contained herein shall be deemed to obligate Lender to accept additional extension fees or to waive such Event of Default for any additional period after any monthly extension has been paid to and accepted by Lender.

(c) Beginning on the first day of the second month following the Conversion Date (the "Permanent Loan First Payment Date"), and continuing on the first day of each calendar month thereafter (except for the final monthly payment which is due on the Maturity Date), Borrower shall pay Lender consecutive monthly installments of principal and interest, each in the amount of Sixteen Thousand One Hundred Twenty-One and 47/100 Dollars (\$16,121.47). The entire unpaid principal balance evidenced by this Note, together with all accrued and unpaid interest thereon, shall be due and payable in full and shall be fully paid on the Maturity Date.

(d) Interest under this Note shall be computed on the basis of a 360-day year consisting of twelve 30-day months, compounded monthly. Interest shall be payable for the actual number of days elapsed in any period. Monthly payments shall be based on a forty (40) year amortization.

(e) Any principal Borrower fails to pay on the Maturity Date shall bear interest after the Maturity Date at the Default Rate set forth in this Note until and including the date on which such principal is paid in full.

(f) Any regularly scheduled monthly installment of principal and interest that is received by Lender before the date it is due shall be deemed to have been received on the due date solely for the purpose of calculating interest due.

(g) As a condition to Borrower making any prepayment under this Note, Borrower shall give Lender at least thirty (30) days prior written notice of (i) Borrower's intent to make such prepayment, (ii) the amount of the prepayment, and (iii) the date Borrower will

make the prepayment. In addition, any prepayment made under this Note must be made on the last business day of the month and must be paid by wire transfer of funds unless Lender agrees to another form of payment.

4. **Application of Payments.** If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender, in Lender's discretion. Borrower agrees that neither Lender's acceptance of a payment from Borrower in an amount that is less than all amounts then due and payable nor Lender's application of such payment shall constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction.

5. **Security.** The Indebtedness is secured, among other things, by a multifamily mortgage, deed to secure debt or deed of trust dated as of the date of this Note (the "Security Instrument"), and reference is made to the Security Instrument for other rights of Lender as to collateral for the Indebtedness.

6. **Acceleration.** If an Event of Default has occurred and is continuing, the entire unpaid principal balance, any accrued interest, the prepayment premium payable under Section 10, if any, and all other amounts payable under this Note and any other Loan Document shall at once become due and payable, at the option of Lender, without any prior notice to Borrower. Lender may exercise this option to accelerate regardless of any prior forbearance.

7. **Late Charge.** If any monthly amount payable under this Note or under the Security Instrument or any other Loan Document is not received by Lender within ten (10) days after the amount is due, Borrower shall pay to Lender, immediately and without demand by Lender, a late charge equal to five percent (5%) of such amount. Borrower acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan evidenced by this Note, and that it is extremely difficult and impractical to determine those additional expenses. Borrower agrees that the late charge payable pursuant to this Section 7 represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional expenses Lender will incur by reason of such late payment. The late charge is payable in addition to, and not in lieu of, any interest payable at the Default Rate pursuant to Section 8 of this Note.

8. **Default Rate.** So long as (a) any monthly installment under this Note remains past due for thirty (30) days or more, or (b) any other Event of Default has occurred and is continuing, interest under this Note shall accrue on the unpaid principal balance from the earlier of the due date of the first unpaid monthly installment or the occurrence of such other Event of Default, as applicable, at a rate (the "Default Rate") equal to the lesser of four (4) percentage points above the rate stated in the first paragraph of this Note or the maximum interest rate which may be collected from Borrower under applicable law. If the unpaid principal balance and all accrued interest are not paid in full on the Maturity Date, the unpaid principal balance and all accrued interest shall bear interest from the Maturity Date at the Default Rate. Borrower also

acknowledges that its failure to make timely payments will cause Lender to incur additional expenses in servicing and processing the Loan, that, during the time that any monthly installment under this Note is delinquent for more than thirty (30) days, Lender will incur additional costs and expenses arising from its loss of the use of the money due and from the adverse impact on Lender's ability to meet its other obligations and to take advantage of other investment opportunities, and that it is extremely difficult and impractical to determine those additional costs and expenses. Borrower also acknowledges that, during the time that any monthly installment under this Note is delinquent for more than thirty (30) days or any other Event of Default has occurred and is continuing, Lender's risk of nonpayment of this Note will be materially increased and Lender is entitled to be compensated for such increased risk. Borrower agrees that the increase in the rate of interest payable under this Note to the Default Rate represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Note, of the additional costs and expenses Lender will incur by reason of the Borrower's delinquent payment and the additional compensation Lender is entitled to receive for the increased risks of nonpayment associated with a delinquent loan.

#### **9. Limits on Personal Liability.**

(a) Except as otherwise provided in this Section 9, neither Borrower nor its partners shall have personal liability under this Note, the Security Instrument or any other Loan Document for the repayment of the Indebtedness or for the performance of any other obligations of Borrower under the Loan Documents, and Lender's only recourse for the satisfaction of the Indebtedness and the performance of such obligations shall be Lender's exercise of its rights and remedies with respect to the Mortgaged Property and any other collateral held by Lender as security for the Indebtedness. This limitation on Borrower's liability shall not limit or impair Lender's enforcement of its rights against any guarantor of the Indebtedness or any guarantor of any obligations of Borrower.

(b) Borrower shall be personally liable to Lender for the repayment of a portion of the Indebtedness equal to one hundred percent (100%) of the original principal balance of this Note (the "Base Recourse"), plus any other amounts for which Borrower has personal liability under this Section 9. If the Loan is converted to an amortizing term loan as set forth in this Note and after the Lease-Up Requirement has been met, the Base Recourse shall be reduced to zero percent (0%) of the original principal balance of the Loan. Notwithstanding the foregoing, Borrower shall continue to be liable for all other obligations under this Note.

(c) In addition to the Base Recourse, Borrower shall be personally liable to Lender for the repayment of a further portion of the Indebtedness equal to any loss or damage suffered by Lender as a result of (1) failure of Borrower to pay to Lender upon demand after an Event of Default all rents to which Lender is entitled under Section 10.1 of the Security Instrument and the amount of all security deposits collected by Borrower from tenants then in residence; (2) failure of Borrower to apply all insurance proceeds and condemnation proceeds as required by the Security Instrument and/or the Loan Agreement; or (3) failure of Borrower to

comply with Section 7.14 and 7.15 of the Loan Agreement relating to the delivery of books and records, statements, schedules and reports.

(d) For purposes of determining Borrower's personal liability under Section 9(b) and Section 9(c) of this Note, all payments made by Borrower or any guarantor of this Note with respect to the Indebtedness and all amounts received by Lender from the enforcement of its rights under the Security Instrument shall be applied first to the portion of the Indebtedness for which Borrower has no personal liability.

(e) In addition, Borrower shall become personally liable to Lender for the repayment of all of the Indebtedness upon the occurrence of any of the following Events of Default: (1) Borrower's acquisition of any property or operation of any business not permitted by Section 7.32 of the Loan Agreement; (2) an Event of Default under Section 8.9 of the Security Instrument; or (3) fraud or written material misrepresentation by Borrower or any officer, director, partner, member or employee of Borrower in connection with the application for or creation of the Indebtedness or any request for any action or consent by Lender.

(f) In addition to any personal liability for the Indebtedness, Borrower shall be personally liable to Lender for (1) the performance of all of Borrower's obligations under the Environmental Indemnity; (2) the costs of any audit under Section 7.15 of the Loan Agreement; and (3) any costs and expenses incurred by Lender in connection with the collection of any amount for which Borrower is personally liable under this Section 9, including fees and out of pocket expenses of attorneys and expert witnesses and the costs of conducting any independent audit of Borrower's books and records to determine the amount for which Borrower has personal liability.

(g) To the extent that Borrower has personal liability under this Section 9, Lender may exercise its rights against Borrower personally without regard to whether Lender has exercised any rights against the Mortgaged Property or any other security, or pursued any rights against any guarantor, or pursued any other rights available to Lender under this Note, the Security Instrument, any other Loan Document or applicable law. For purposes of this Section 9, the term "Mortgaged Property" shall not include any funds that (1) have been applied by Borrower as required or permitted by the Security Instrument prior to the occurrence of an Event of Default or (2) Borrower was unable to apply as required or permitted by the Security Instrument because of a bankruptcy, receivership, or similar judicial proceeding.

#### **10. Voluntary and Involuntary Prepayments.**

(a) Except as provided in Section 10(b) of this Note, Borrower shall not prepay any outstanding principal owing under this Note, in whole or in part, prior to the Permanent Loan First Payment Date. Commencing on the Permanent Loan First Payment Date, Borrower may prepay the outstanding principal owing under this Note in whole, but not in part, on the last day of any month provided that the Lender is given at least thirty (30) days' prior

written notice of such prepayment; provided such prepayment is accompanied by a prepayment penalty (expressed as a percentage of the principal amount so prepaid) as follows:

- Ten percent (10%) for each of the first, second, and third years following the Permanent Loan First Payment Date;
- Seven percent (7%) for the fourth year following the Permanent Loan First Payment Date;
- Six percent (6%) for the fifth year following the Permanent Loan First Payment Date;
- Five percent (5%) for the sixth year following the Permanent Loan First Payment Date;
- Four percent (4%) for the seventh year following the Permanent Loan First Payment Date;
- Three percent (3%) for the eighth year following the Permanent Loan First Payment Date;
- Two percent (2%) for the ninth year following the Permanent Loan First Payment Date; and
- One percent (1%) for the tenth year following the Permanent Loan First Payment Date.

There shall be no prepayment penalty after the end of the tenth year following the Permanent Loan First Payment Date.

Any such prepayments, including the principal sum so prepaid, interest thereon to and including the date of such prepayment and any prepayment penalty due in connection therewith, shall be paid in immediately available federal funds. No partial payment of outstanding principal owing under this Note shall be allowed at any time.

(b) Notwithstanding anything to the contrary contained herein, the application of any condemnation awards or insurance proceeds to the outstanding principal balance of this Note by Lender pursuant to the terms of the Security Instrument shall not constitute a prepayment of this Note and in no event shall a prepayment premium be due and payable in connection with such application. If a partial casualty or partial condemnation of apartment units results in the Mortgaged Property being unable to generate a debt service coverage ratio of at least 1.15:1, and absent any Event of Default, the outstanding principal balance of this Note (after application of such condemnation award or insurance proceeds) shall be re-amortized based on the remaining portion of the amortization period set forth in this Note. Debt service coverage ratio is defined as the ratio of Borrower's net operating income before interest, taxes, amortization and depreciation to annual debt service, including, without limitation, principal and interest payments on the Loan based upon the interest rate set forth in this Note.

10. **Costs and Expenses.** Borrower shall pay all expenses and costs, including fees and out-of-pocket expenses of attorneys and expert witnesses and costs of investigation, incurred

by Lender as a result of any default under this Note or in connection with efforts to collect any amount due under this Note, or to enforce the provisions of any of the other Loan Documents, including those incurred in post-judgment collection efforts and in any bankruptcy proceeding (including any action for relief from the automatic stay of any bankruptcy proceeding) or judicial or non-judicial foreclosure proceeding.

11. **Forbearance.** Any forbearance by Lender in exercising any right or remedy under this Note, the Security Instrument, or any other Loan Document or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of that or any other right or remedy. The acceptance by Lender of any payment after the due date of such payment, or in an amount which is less than the required payment, shall not be a waiver of Lender's right to require prompt payment when due of all other payments or to exercise any right or remedy with respect to any failure to make prompt payment. Enforcement by Lender of any security for Borrower's obligations under this Note shall not constitute an election by Lender of remedies so as to preclude the exercise of any other right or remedy available to Lender.

12. **Waivers.** Presentment, demand, notice of dishonor, protest, notice of acceleration, notice of intent to demand or accelerate payment or maturity, presentment for payment, notice of nonpayment, grace, and diligence in collecting the Indebtedness are waived by Borrower and all endorsers and guarantors of this Note and all other third party obligors.

13. **Loan Charges.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Loan Document, whether considered separately or together with other charges provided for in any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts shall be applied by Lender to reduce the unpaid principal balance of this Note. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitute interest, shall be deemed to be allocated and spread ratably over the stated term of this Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note.

14. **Commercial Purpose.** Borrower represents that the Indebtedness is being incurred by Borrower solely for the purpose of carrying on a business or commercial enterprise, and not for personal, family or household purposes.

15. **Counting of Days.** Except where otherwise specifically provided, any reference in this Note to a period of "days" means calendar days, not Business Days.



16. **Governing Law.** This Note shall be governed by the law of the jurisdiction in which the Mortgaged Property is located.

17. **Captions.** The captions of the paragraphs of this Note are for convenience only and shall be disregarded in construing this Note.

18. **Notices.** All notices, demands and other communications required or permitted to be given by Lender to Borrower pursuant to this Note shall be given in accordance with Section 11.9 of the Loan Agreement.

19. **Lender Expenditures.** Borrower agrees to pay on demand any expenditures made by Lender in accordance with the Loan Documents, including, but not limited to, the payment of taxes, insurance premiums, costs of maintenance and preservation of the Mortgaged Property, common expense and other assessments relating to the Mortgaged Property, and attorneys' fees and costs incurred in connection with any matter pertaining hereto or to the security pledged to secure the Principal Indebtedness or any portion thereof (collectively the "Lender Expenditures").

Borrower agrees to pay an effective rate of interest equal to the sum of the interest rate provided for in this Note and any additional rate of interest resulting from Lender Expenditures and any other fees or amounts to be paid by Borrower under any of the other Loan Documents. Neither this Note nor any of the other Loan Documents shall be construed to create a contract for the use, forbearance or detention of money requiring payment of interest at a rate greater than the maximum interest rate permitted to be charged under applicable law. If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower in connection with the Loan is interpreted so that any interest or other charge provided for in any Loan Document, whether considered separately or together with other charges provided for in any other Loan Document, violates this law, and Borrower is entitled to the benefit of that law, that interest or charge is hereby reduced to the extent necessary to eliminate that violation. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness that constitutes interest, as well as all other charges made in connection with the Indebtedness that constitutes interest, shall be deemed to be allocated and spread ratably over the stated term of the Loan. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of this Note. To the extent that either Chapter 303 or 306, or both, of the Texas Finance Code apply in determining the maximum legal rate, Lender hereby elects to determine the applicable rate ceiling by using the weekly ceiling from time to time in effect, subject to Lender's right subsequently to change such method in accordance with applicable law, as the same may be amended or modified from time to time.

20. **Consent to Jurisdiction and Venue.** Borrower agrees that any controversy arising under or in relation to this Note shall be litigated exclusively in the jurisdiction in which the Mortgaged Property is located (the "Property Jurisdiction"). The state and federal courts and

authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Note. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

21. WAIVER OF TRIAL BY JURY. BORROWER AND LENDER EACH (A) AGREES NOT TO ELECT A TRIAL BY JURY WITH RESPECT TO ANY ISSUE ARISING OUT OF THIS NOTE OR THE RELATIONSHIP BETWEEN THE PARTIES AS LENDER AND BORROWER THAT IS TRIABLE OF RIGHT BY A JURY AND (B) WAIVES ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO SUCH ISSUE TO THE EXTENT THAT ANY SUCH RIGHT EXISTS NOW OR IN THE FUTURE. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS SEPARATELY GIVEN BY EACH PARTY, KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COMPETENT LEGAL COUNSEL.


*[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]*

IN WITNESS WHEREOF, Borrower has signed and delivered this Note or has caused this Note to be signed and delivered by its duly authorized representative.

BORROWER

**LA GRANGE SPRINGS, LP,**  
an Alabama limited partnership

By: La Grange Springs GP, LLC,  
an Alabama limited liability company  
Its: General Partner

By:  \_\_\_\_\_  
Jeff Beaver  
Its: Manager

Borrower's Tax Identification Number: 85-2576012

\$5,000,000

Atlanta, Georgia  
November 1, 2020  
Funding Date: November 24, 2020

### **BRIDGE LOAN NOTE**

FOR VALUE RECEIVED, without grace, La Grange Springs, LP, an Alabama limited partnership (the “Company”), promises to pay to the order of Regions Bank, an Alabama banking corporation (herein called the “Bank,” and together with any subsequent holder of this note called the “Holder”), in the manner set forth below, the principal sum of Four Million Nine Hundred Thousand and No/100 Dollars (\$5,000,000), or so much thereof as may be advanced by the Bank hereunder, plus interest on the unpaid principal balance of the amount advanced hereunder from the date advanced until payment in full at the rate set forth below. The Company further agrees with the Holder as follows:

#### **SECTION 1. Rules of Construction.**

This Note (the “Bridge Loan Note”) is subject to the rules of construction set forth in the Credit Agreement (as defined below).

#### **SECTION 2. Definitions.**

As used in this Bridge Loan Note, capitalized terms that are not otherwise defined herein have the meanings defined for them in the Credit Agreement and the following terms are defined as follows:

**Actual/360 Day Basis** means a method of computing interest on the basis of an assumed year of 360 days for the actual number of days elapsed, meaning that the interest accrued for each day will be computed by multiplying the interest rate applicable on that day by the unpaid principal balance on that day and dividing the result by 360. All interest on this Bridge Loan Note will be computed on an Actual/360 Day Basis.

**Bridge Loan** means the loan made pursuant to the Credit Agreement as evidenced by this Bridge Loan Note.

**Bridge Loan Note** means this promissory note.

**Bridge Loan Security Agreement** means the Security Agreement and Assignment (Capital Contributions) dated as of November 1, 2020 by the Company in favor of the Bank.

**Credit Agreement** means a Credit Agreement dated as of November 1, 2020 between the Company and the Bank, as amended from time to time hereafter.

**Default Rate** means a rate of interest equal to five (5) percent (500 basis points) in excess of the highest interest rate that would otherwise be payable on the principal amount of the Credit under the Financing Documents from time to time in the absence of the existence of an Event of Default, or the maximum rate permitted by law, whichever is less.

**Event of Default** is defined in Section 11. An Event of Default shall “exist” if an Event of Default has occurred and is continuing beyond any applicable cure period.

**Financing Documents** is defined in the Credit Agreement.

**Interest Period** means each period commencing on the last day of the immediately preceding Interest Period and ending on the same day of the month that interest is due one month thereafter; provided (i) the first Interest Period shall commence on the date hereof and end on the first day thereafter that interest is due, (ii) any Interest Period that ends in a month for which there is no day which numerically corresponds to the last day of the immediately preceding Interest Period shall end on the last day of the month and (iii) any Interest Period that would otherwise extend past the maturity date of this Bridge Loan Note shall end on the maturity date of this Bridge Loan Note.

**LIBOR Business Day** means a day on which the office of the Bank at which payments under this Bridge Loan Note are to be made is open for business and on which dealings in U.S. dollar deposits are carried out in the London interbank market.

**London Interbank Offered Rate (“LIBOR”)** means with respect to any Interest Period, that rate for deposits in U. S. dollars for a period comparable to the term of such Interest Period which appears on Reuters Screen LIBOR01 Page (or such other page that may replace that page on that service or on such other comparable financial information reporting service used by the Bank, in its discretion, at the time such rate is determined) as of 11:00 a. m., London, England time on the day (the “Pricing Date”) that is two LIBOR Business Days preceding the first day of such Interest Period (or if not so reported, then as determined by the Bank from another recognized source or from one or more interbank quotations, in the Bank’s discretion). In any event, LIBOR will not be less than three quarters of one percent (0.75%) per annum.

**Maturity Date** means twenty-four (24) months from the Funding Date set forth above or any earlier date on which the Bank elects to accelerate the Bridge Loan because of the existence of an Event of Default.

**Property** means all property, real and personal, that is now or hereafter conveyed or assigned to the Bank, or in which the Bank is now or hereafter granted a Lien, as security for the Bridge Loan and other Obligations.

### **SECTION 3.            Interest.**

This Bridge Loan Note shall bear interest (computed on an Actual/360 Day Basis) on the unpaid principal balance hereof outstanding from time to time, from the date advanced at a floating interest rate equal to three percent (3.00%) (the “Margin”) in excess of LIBOR. Each change in the interest rate on this Bridge Loan Note because of a change in LIBOR shall become effective hereunder on the day the change in LIBOR occurs, without notice to the Company.

If the Bank at any time or from time to time determines that (a) LIBOR is unavailable, (b) LIBOR cannot be determined, (c) LIBOR does not adequately reflect the cost to the Bank of making, funding, or maintaining the Loan, (d) the use of LIBOR has become impracticable or unreliable, (e) LIBOR is no longer representative of the underlying market or economic reality, or (f) it is no longer lawful for the Bank to lend at any rate based on LIBOR (any such determination is hereafter called a “Trigger Event”), then, the Bank may elect to designate a substitute interest rate index (the “Replacement Index”). Thereafter, such alternate index shall be deemed to be and shall become the Index as that term is used in this Bridge Loan Note. If the Bank designates a Replacement Index, the Bank may also determine at such time or from time to time thereafter that a Margin adjustment is necessary to produce a comparable interest rate to the interest rate that would have applied based on LIBOR. Upon such determination, the Bank will designate the amount of such Margin adjustment (which may be a positive or a negative number) and adjust the Margin by that amount (and the result will be the “Adjusted Margin”). The Bank will provide notice to the Company of the Replacement Index, any Margin adjustment, and the Adjusted Margin, as applicable, and their effective date. Thereafter, the Replacement Index shall be deemed to be and shall become the operative interest rate index for purposes of this Bridge Loan Note and any other Financing Documents, and this Bridge Loan Note shall continue to bear interest on the unpaid principal amount from the effective date of such designation(s) through repayment thereof at the Replacement Index plus the Margin or the Adjusted Margin, as applicable (subject to increase to or by any applicable default

rate). In any event, the Replacement Index will not be less than zero percent (0.00%) per annum. The Replacement Index may not necessarily be the Bank's most favorable lending rate or interest rate index. Any determination or designation made by the Bank under this paragraph shall be made in the Bank's sole and absolute discretion and shall be conclusive and binding absent manifest error. In connection with the implementation of a Replacement Index and, as applicable, the Adjusted Margin, the Bank may make any technical, administrative, or operational changes that may be appropriate to facilitate the administration thereof.

**SECTION 4. Intentionally Omitted.**

**SECTION 5. Payments of Principal and Interest.**

(a) Interest only shall be payable monthly in arrears on the tenth day of each month, commencing December 10, 2020, on the outstanding principal balance of this Bridge Loan Note.

(b) On the Maturity Date, the Company will pay to the Bank the outstanding principal balance of this Bridge Loan Note and any accrued but unpaid interest. ON THE MATURITY DATE A SUBSTANTIAL "BALLOON" PAYMENT WILL BE DUE AND PAYABLE.

Notwithstanding the foregoing, for the purpose of enabling the Holder to send billing statements in advance of each interest payment date reflecting the amount of interest payable on such date, at the option of the Holder LIBOR in effect fifteen (15) days prior to each interest payment shall be deemed to continue in effect until the day prior to such interest payment date for purposes of computing the interest payable on such date. If the Holder elects to submit an advance billing statement in accordance with the preceding sentence and if LIBOR changes during such 15-day period, the difference between the amount of interest that in fact accrues during such period and the amount of interest actually paid by the Company shall be added to or subtracted from, as the case may be, the interest otherwise payable in preparing the periodic billing statement for the next interest payment date. In determining the amount of interest payable at the Maturity Date or upon full prepayment of this Bridge Loan Note, all changes in LIBOR occurring on or prior to the day before the Maturity Date or the date of such full prepayment shall be taken into account.

**SECTION 6. Master Bridge Loan Note, etc.**

This Bridge Loan Note is a master note, and it is contemplated that the proceeds of the Bridge Loan evidenced by this Bridge Loan Note will be advanced by the Bank to the Company in installments in accordance with the Credit Agreement, as needed for the purposes set forth in the Credit Agreement, and upon compliance with the terms and conditions set forth therein. This Bridge Loan Note shall be valid and enforceable as to, and the collateral granted to the Bank under the Bridge Loan Security Agreement as security for the Bridge Loan evidenced hereby shall be and remain valid and binding as security for, the aggregate amount advanced at any time hereunder, whether or not the full face amount hereof is advanced. Each principal advance and payment on this Bridge Loan Note shall be reflected by notations made by the Bank on its internal records (which may be kept on computer or otherwise), and the Bank is hereby authorized to record on such records all such principal advances and payments. The aggregate unpaid amount reflected by the Bank's notations on its internal records (whether on computer or otherwise) shall be deemed rebuttably presumptive evidence of the principal amount remaining outstanding and unpaid on this Bridge Loan Note. No failure of the Bank so to record any advance or payment shall limit or otherwise affect the obligation of the Company hereunder with respect to any advance, and no payment of principal by the Company shall be affected by the failure of the Bank so to record the same.

**SECTION 7. Credit Agreement.**

This Bridge Loan Note is the Bridge Loan Note referred to in the Credit Agreement, and is subject to all of the provisions thereof, including those providing for optional prepayment, acceleration of maturity, and adjustment of the interest rate thereunder, all as set forth in the Credit Agreement. All payments by the Company to the Bank under this Bridge Loan Note shall be made in accordance with Section 2.8 of the Credit Agreement.

**SECTION 8. Default Rate.**

If an Event of Default exists, this Bridge Loan Note shall bear interest at the Default Rate, until the earlier of (a) such time as all amounts due hereunder are paid in full or (b) no such Event of Default exists.

**SECTION 9. Late Charge.**

Unless otherwise stipulated, the Company agrees to pay to the Bank, on demand, a late charge computed as follows to cover the extra expense involved in handling late payments: If interest or principal are payable in installments, the late charge will be equal to 5% of any payment that is not paid within twelve (12) days after it is due. If principal and interest are payable at maturity, the late charge will be equal to 5% of the interest portion of the payment that is not paid within twelve (12) days after it is due.

The late charge will never be less than \$10.00 on each payment. This provision shall not be deemed to excuse a late payment or be deemed a waiver of any other right the Bank may have including, without limitation, the right to declare the entire unpaid principal and interest immediately due and payable.

**SECTION 10. Security Documents.**

This Bridge Loan Note with interest is secured by and entitled to the benefits of the Bridge Loan Security Agreement whereby Company has pledged its interest in capital contributions to be made to the Company as security for this Bridge Loan and may in addition be secured by and entitled to the benefits of the Security Documents referred to in the Credit Agreement. Reference to the Security Documents is hereby made for all of the provisions thereof.

**SECTION 11. Events of Default.**

The occurrence of any of the following events shall constitute an event of default (“Event of Default”) under this Bridge Loan Note unless otherwise allowed pursuant to the Credit Agreement and after giving effect to notice or cure periods specified therein or in the Bridge Loan Security Agreement (whatever the reason for such event and whether or not it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, order, rule or regulation of any Governmental Authority) and/or in any of the Security Documents (whatever the reason for such event and whether or not it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree, order, rule or regulation of any Governmental Authority): (a) any representation or warranty made in any of the Financing Documents shall prove to be false or misleading in any material respect as of the time made; or (b) any report, certificate, financial statement or other instrument furnished in connection with this Bridge Loan Note or any of the other Financing Documents shall prove to be false or misleading in any material respect as of the time furnished; or (c) default shall be made in the payment when due of any of the obligations evidenced by this Bridge Loan Note or any part thereof (after giving effect to any applicable notice, grace or cure period specified therein); or (d) any Event of Default, as therein defined, shall occur under any of the other Financing Documents (after giving effect to any applicable notice, grace or cure period specified therein).

**SECTION 12. Acceleration.**

If an Event of Default exists that does not already result in the automatic acceleration of this Bridge Loan Note under another Financing Document, the Holder shall have the right without further notice to the Company to declare the entire unpaid principal balance of the indebtedness evidenced by this Bridge Loan Note, with accrued interest, to be immediately due and payable after giving effect to any applicable notice, grace or cure periods specified in the Financing Documents.

**SECTION 13. Certain Waivers and Agreements by Obligor.**

(a) As to the obligations evidenced by this Bridge Loan Note, the Company (i) waives demand, presentment, protest, notice of protest, suit and all other requirements necessary to hold the Company liable hereunder; (ii) waives all exemptions of personal property secured to the Company under the Constitution and laws of the State of Alabama or any other state; and (iii) agrees to pay all costs of collection, including a reasonable attorney's fee, if the Event of Default should occur in the payment of any of the obligations evidenced by this Bridge Loan Note.

(b) The Company (i) acknowledges that the Bank has not made any representations or entered into any agreements with the Company to induce the Company to enter into the transactions contemplated by this Bridge Loan Note except as set forth in writing in the Financing Documents; (ii) agrees upon request the Company will furnish financial statements to the Holder and grant the Holder access to the Company's books and records during the Company's business hours; (iii) agrees that any obligations of the Company may, from time to time, in whole or in part, be renewed, extended, modified, accelerated, compromised, discharged or released by the Holder, and any collateral, lien, right of set-off or other security for the obligations evidenced by this Note or any other obligations of the Company to the Holder may, from time to time, in whole or in part, be exchanged, sold, released, satisfied, or terminated, all without notice to, or in any way affecting or releasing any of the obligations of the Company; and (iv) agrees that the Holder will not be required first to resort to any Security Document, any guaranty or any other security pledged or granted to the Holder, but upon an Event of Default under this Bridge Loan Note, the Bridge Loan Security Agreement or any of the other Security Documents, the Holder may forthwith look to the Company for payment hereunder or may look to and realize upon any other security held by the Holder, in any order the Holder chooses, until the entire debt evidenced by this Bridge Loan Note is paid.

**SECTION 14. Independent Obligations.**

The Company agrees that each of the obligations of the Company to the Holder under this Bridge Loan Note may be enforced against the Company without the necessity of joining any other person, any other holders of Liens in any Property or any other person, as a party.

**SECTION 15. Heirs, Successors and Assigns.**

Whenever in this Bridge Loan Note any party hereto is referred to, such reference shall be deemed to include the heirs, successors and assigns of such party, except that the Company may not assign or transfer its obligations under this Bridge Loan Note without the prior written consent of the Holder not to be unreasonably withheld; and all obligations of the Company under this Bridge Loan Note shall bind the Company's heirs, successors and assigns and shall inure to the benefit of the successors and assigns of the Holder.

**SECTION 16. Governing Law.**

This Bridge Loan Note shall be construed in accordance with and governed by the internal laws of the State of Alabama except as required by mandatory provisions of law.

**SECTION 17. Separability Clause.**

If any provision of this Bridge Loan Note shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**SECTION 18. No Oral Agreements.**

This Bridge Loan Note, together with the other Financing Documents, is the final expression of the agreement between the parties hereto with respect to the subject matter hereof, and this Bridge Loan Note may not be contradicted by evidence of any prior oral agreement between such parties. All previous oral agreements



between the parties hereto have been incorporated into this Bridge Loan Note and the other Financing Documents, and there is no unwritten oral agreement between the parties hereto in existence.

**SECTION 19. Waiver and Election.**

The exercise by the Holder of any option given under this Bridge Loan Note or the Security Documents shall not constitute a waiver of the right to exercise any other option. No failure or delay on the part of the Holder in exercising any right, power or remedy under this Bridge Loan Note or the Security Documents shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any further exercise thereof or the exercise of any other right, power or remedy. No modification, termination or waiver of any provisions of this Bridge Loan Note, nor consent to any departure by the Company therefrom, shall be effective unless in writing and signed by an authorized officer of the Holder, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Company in any case shall entitle the Company to any other or further notice or demand in similar or other circumstances.

**SECTION 20. Set-off.**

While any Event of Default exists, the Bank is authorized at any time and from time to time, without notice to the Company (any such notice being expressly waived by the Company), to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Bank to or for the credit or the account of the Company against any and all of the obligations evidenced by this Bridge Loan Note, irrespective of whether or not the Bank shall have made any demand under this Bridge Loan Note and although such obligations may be unmatured. The rights of the Bank under this Section 20 are in addition to all other rights and remedies (including other rights of set-off or pursuant to any banker's lien) that the Bank may have.

**SECTION 21. Time of Essence.**

Time is of the essence of this Bridge Loan Note.

**SECTION 22. WAIVER OF JURY TRIAL.**

EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS BRIDGE LOAN NOTE OR ANY OTHER FINANCING DOCUMENT AND/OR CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS BRIDGE LOAN NOTE AND THE OTHER FINANCING DOCUMENTS AND/OR CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**SECTION 23. Submission to Jurisdiction.**

The Company irrevocably (a) acknowledges that this Bridge Loan Note will be accepted by the Bank and performed substantially by the Company in the State of Alabama; (b) submits to the jurisdiction of each state or federal court sitting in Jefferson County, Alabama (collectively, the "Courts") over any suit, action or proceeding arising out of or relating to this Bridge Loan Note or any of the other Financing Documents (individually, an "Agreement Action"); (c) waives, to the fullest extent permitted by law, any objection or

defense that the Company may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts; (d) agrees that final judgment in any Agreement Action brought in any of the Courts shall be conclusive and binding upon the Company and may be enforced in any other court to the jurisdiction of which the Company is subject, by a suit upon such judgment; (e) consents to the service of process on the Company in any Agreement Action by the mailing of a copy thereof by registered or certified mail, postage prepaid, to the Company at the Company's address designated in the Credit Agreement; (f) agrees that service in accordance with Section 23(e) shall in every respect be effective and binding on the Company to the same extent as though served on the Company in person by a person duly authorized to serve such process; and (g) AGREES THAT THE PROVISIONS OF THIS SECTION, EVEN IF FOUND NOT TO BE STRICTLY ENFORCEABLE BY ANY COURT, SHALL CONSTITUTE "FAIR WARNING" TO THE COMPANY THAT THE EXECUTION OF THIS BRIDGE LOAN NOTE MAY SUBJECT THE COMPANY TO THE JURISDICTION OF EACH STATE OR FEDERAL COURT SITTING IN FAYETTE COUNTY, TEXAS WITH RESPECT TO ANY AGREEMENT ACTIONS, AND THAT IT IS FORESEEABLE BY THE COMPANY THAT THE COMPANY MAY BE SUBJECTED TO THE JURISDICTION OF SUCH COURTS AND MAY BE SUED IN THE STATE OF TEXAS IN ANY AGREEMENT ACTIONS. NOTHING IN THIS SECTION 23 SHALL LIMIT OR RESTRICT THE BANK'S RIGHT TO SERVE PROCESS OR BRING AGREEMENT ACTIONS IN MANNERS AND IN COURTS OTHERWISE THAN AS HEREIN PROVIDED.

**SECTION 24. Usury Laws.**

Any provision of this Bridge Loan Note or any of the other Financing Documents to the contrary notwithstanding, the Company and the Bank agree that they do not intend for the interest or other consideration provided for in this Bridge Loan Note and the other Financing Documents to be greater than the maximum amount permitted by applicable law. Regardless of any provision in this Bridge Loan Note or any of the other Financing Documents, the Bank shall not be entitled to receive, collect or apply, as interest on the Obligations, any amount in excess of the maximum rate of interest permitted to be charged under applicable law until such time, if any, as that interest, together with all other interest then payable, falls within the then applicable maximum lawful rate of interest. If the Bank shall receive, collect or apply any amount in excess of the then maximum rate of interest, the amount that would be excessive interest shall be applied first to the reduction of the principal amount of the Obligations then outstanding in the inverse order of maturity, and second, if such principal amount is paid in full, any excess shall forthwith be returned to the Company. In determining whether the interest paid or payable under any specific contingency exceeds the highest lawful rate, the Company and the Bank shall, to the maximum extent permitted under applicable law, (a) characterize any non-principal payment as an expense, fee or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, (c) consider all the Obligations as one general obligation of the Company, and (d) "spread" the total amount of the interest throughout the entire term of this Bridge Loan Note so that the interest rate is uniform throughout the entire term of this Bridge Loan Note.

**SECTION 25. [Intentionally Omitted].**

**SECTION 26. LIBOR Phase Out Disclosure.**

The United Kingdom's Financial Conduct Authority ("FCA") has announced it will phase out its support of the London Interbank Offered Rate. The London Interbank Offered Rate may be sustained until the end of 2021. The Company acknowledges that if during the term of this loan a Trigger Event occurs, the Company's variable interest rate will be determined based on an alternate interest rate index and, as applicable, margin, subject to adjustment in accordance with the terms of this Bridge Loan Note. The effect of the FCA's decision to no longer support the London Interbank Offered Rate cannot be predicted, or, if changes are ultimately made to the London Interbank Offered Rate, the effect of those changes cannot be predicted. In addition, the Company acknowledges the impact of any interest rate index change related to this loan due to the FCA's decision to phase out its support of the London Interbank Offered Rate, should this occur, cannot be predicted and may or may not be advantageous to the Company.

IN WITNESS WHEREOF, the undersigned La Grange Springs, LP has caused this Bridge Loan Note to be executed and delivered by its duly authorized general partner on the date first hereinabove noted.

COMPANY:

La Grange Springs, LP, an Alabama limited partnership

By: La Grange Springs GP, LLC, an Alabama limited liability company

Its: General Partner

By: 

Name: Jeff Beaver

Its: Manager

Signature page for Bridge Loan Note for La Grange Springs, LP

# La Grange Springs, LP

404 E. McKinney Avenue • Albertville, AL 35950 • Telephone (256) 572-2208  
Email tobutch51@yahoo.com

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December 9, 2021

Mr. Cody Campbell  
Director of Multifamily Finance  
Texas Department of Housing and Community Affairs  
P O Box 13941  
Austin, TX 78711

## **Re: Application 20273 La Grange Springs**

Dear Mr. Campbell:

La Grange Springs 2020, LP, as the Owner-Applicant is aware of and hereby acknowledges that \$112,661 of the Developer Fee owed to the Developer for La Grange Springs shall be deferred.

The terms of the deferred developer fee shall be: a 15-year term and loaned at zero percent (0%) interest. Payments shall be repaid from available cash flow with the balance due at the end of the term.

Yours truly,

La Grange Springs 2020, LP

By: La Grange Springs GP, LLC  
By: Arx Housing Initiatives, LLC  
Its: General Partner



By: \_\_\_\_\_  
Robbye G. Meyer



January 26, 2021

Mr. Jeff Beaver  
La Grange Springs, LP  
404 E. McKinney Ave  
Albertville, AL 35950

Re: Additional equity for additional tax credit application LOI

Dear Mr. Beaver:

We at Regions Affordable Housing, LLC (“RAH”) are outlining the following business terms set forth in this letter of intent pursuant to which RAH would provide additional equity capital for the purchase of the limited partner interest in La Grange Springs, LP, a Texas limited partnership (the “Partnership”). RAH or an assignee (the “Investor Partner”) has acquired a 99.99% limited partner interest and Sterling Corporate Services LLC (the “Special Investor Partner”), has retained a 0.001% Special Investor Partner interest in the Partnership. In the event additional credits are awarded to this project, basic business terms outlined herein will be incorporated into an amended and restated limited partnership agreement (the “Amended LPA”).

1. **Apartment Development Information and Parties Involved**

(a) La Grange Springs Apartments (the “Apartment Development”) will consist of the new construction of 72 units for family occupancy. The Apartment Development will be located at NCE of Hwy 77 & CR 2145, La Grange, Fayette County, TX. Sixty-four (64) units will be occupied in compliance with the federal Low-Income Housing Tax Credit (“LIHTC”) requirements of Section 42 of the Internal Revenue Code.

(b) The parties involved with the Apartment Development are as follows:

- (i) **Partnership:** La Grange Springs, LP
- (ii) **General Partner:** La Grange Springs GP, LLC
- (iii) **Developer:** Olympia Construction, Inc, Bouldin Communities, LLC; Bouldin Communities; Arx Housing Initiative, LLC
- (iv) **Guarantor:** Jeff and Ruth Beaver and Ralph and Denise Fullerton; subject to RAH’s review and approval of financial statements.

2. **LIHTC** The Partnership has been awarded a reservation of LIHTC in the annual amount of \$883,142 from the Texas Department of Housing & Community Affairs (“TDHCA” or the “State Agency”). The Partnership is now applying for additional annual tax credits in the amount of \$79,483.

3. **Purchase Price** RAH acquired its Investor Partner interest in the Partnership for a total equity capital contribution of \$7,947,483 and represents a price per LIHTC of \$0.90. RAH’s equity capital contributions will be paid in installments upon the achievement of certain benchmark conditions.

#### 4. Equity Capital Contributions

(a) At closing, RAH agreed to fund its equity capital contributions pursuant to the schedule below. A summary of the conditions to the payment of the installments is included herein (no statement or representation below will replace language as stated within the La Grange Springs Limited Partnership Agreement):

<b>Conditions</b>	<b>% of Equity</b>	<b>Amount</b>
i) Upon the later of (a) execution of the Amended LPA, (b) receipt and approval of all due diligence items on RAH's due diligence checklist, (c) receipt of commitments for funding of the loan sources described in paragraph 2, and (d) closing and initial funding of the construction loan.	10.0%	\$794,748
ii) Upon 50% completion, as verified by a third-party inspecting engineer	8.00%	\$635,799
iii) Upon Construction Completion, as evidenced by the documentation to be set forth in the Amended LPA.	58.53%	\$4,651,265
iv) Upon the later of (a) achievement of 100% tax credit eligible occupancy as evidenced by RAH's receipt and approval of a 100% Lease-Up Report, (b) Final Closing, including permanent loan conversion, and (c) achievement of a 1.15x debt service coverage ratio for three (3) consecutive months calculated based on the mandatory permanent debt service.	12.95%	\$1,426,176
v) Upon receipt of the IRS Form 8609.	5.0% (Less \$50,000)	\$389,496
vi) Upon receipt of the Federal Tax Return for the Partnership for the year in which the first tax credits are first claimed.		\$50,000
<b>Total:</b>	<b>100%</b>	<b>\$7,947,483</b>

(b) Adjustment of Equity Capital Contributions. If the actual LIHTC allocated by the State Agency on IRS form(s) 8609 (the "Maximum Tax Credit") is more or less than the Projected LIHTC for the credit period (as a result of any circumstance other than a Tax Credit Recapture Event, as defined below), the equity capital contribution shall be adjusted in proportion to the increase or decrease in actual LIHTC. The La Grange Springs LPA mentions an additional equity capital contribution of RAH in an amount up to 5% of RAH's total equity capital contribution. Should the state agency award additional credits over the 5% and up to 9%, the investor will consider an additional \$ amount in equity investment.

### **Equity Pay-in Schedule for Additional Credits**

Outlined below are equity contributions reflecting an RAH upward equity contribution were the project to receive 79,483 in additional LIHTC equity and RAH were to provide equity for the full \$79,483 of additional LIHTC awarded. Equity pricing below reflects a \$0.90 purchase price.

<b>Conditions</b>	<b>% of Equity</b>	<b>Amount</b>
i) Upon the later of (a) execution of the Amended LPA, (b) receipt and approval of all due diligence items on RAH's due diligence checklist, (c) receipt of commitments for funding of the loan sources described in paragraph 2, and (d) closing and initial funding of the construction loan.	9%	\$794,748
ii) Upon 50% completion, as verified by a third-party inspecting engineer	7%	\$635,799
iii) Upon Construction Completion, as evidenced by the documentation to be set forth in the Amended LPA.	55%	\$4,651,265
iv) Upon the later of (a) achievement of 100% tax credit eligible occupancy as evidenced by RAH's receipt and approval of a 100% Lease-Up Report, (b) Final Closing, including permanent loan conversion, and (c) achievement of a 1.15x debt service coverage ratio for three (3) consecutive months calculated based on the mandatory permanent debt service.	16%	\$1,426,176
v) Upon receipt of the IRS Form 8609.	13% (Less \$50,000)	\$1,104,771
vi) Upon receipt of the Federal Tax Return for the Partnership for the year in which the first tax credits are first claimed.		\$50,000
<b>Total:</b>	<b>100%</b>	<b>\$8,662,759</b>

### **5. Due Diligence and Closing**

The terms and conditions of this letter of intent are based on the accuracy of information you provided to RAH. Our proposal to make the investment described in this letter of intent is subject to our mutual agreement on the terms of the Amended LPA and formal approval by the Regions Affordable Housing investment group.

### **6. Confidentiality**

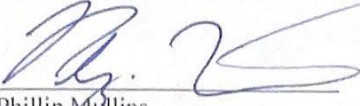
You agree to keep the terms and conditions contained in this letter of intent confidential and not disclose the terms to any third party (other than the State Agency, accountants and attorneys of the Partnership) without the express prior written approval of RAH.

This letter of intent, serves as an outline of the principal terms and conditions of the proposed equity investment by RAH, including the additional equity application, and is subject to (i) change or withdrawal, if in RAH's judgement, changes in market conditions and/or investor requirements would adversely affect the transaction. Please execute and promptly return to us a copy of this letter of intent, the

terms herein shall expire 30 days after the date of this agreement if your signed copy has not been received by RAH by that deadline.

Very truly yours,

REGIONS AFFORDABLE HOUSING, LLC

By:   
Phillip Mullins  
Vice President



The foregoing is hereby accepted, agreed to and confirmed the 26<sup>th</sup> day of January, 2022

**La Grange Springs, LP**

By: La Grange Springs GP, LLC  
Its General Partner

By: 

Name: Jeff Beaver

Title: Manager of GP

GENERAL WARRANTY DEED

THE STATE OF TEXAS

§  
§  
§  
§

*This document is being re-record for the  
sole purpose of adding the correct  
legal description.*

COUNTY OF FAYETTE

5141004033

**JORDAN CREEK INVESTMENTS, LLP**, a Texas limited liability partnership, hereinafter referred to as "**Grantor**," whether one of more, of the County of Fayette, State of Texas, for in and consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid to Grantor by Grantee herein named, the receipt and sufficiency of which is hereby acknowledged, has GRANTED, SOLD, and CONVEYED, and by these presents does GRANT, SELL, AND CONVEY to **LA GRANGE SPRINGS, LP**, an Alabama limited partnership, hereinafter referred to "**Grantee**," whether one or more, whose address is 404 East McKinney Avenue, Albertville, Alabama 35950, all of the described real estate situated in Fayette County, Texas to wit:

See attached "Exhibit A" for legal description.

together with all improvements, structures and fixtures situated thereon and any right, title and interest of Grantor in and to adjacent streets, alleys, rights-of-way, benefits, privileges, easements, tenements, hereditaments and strips and goes (collectively, the "**Property**")/

This conveyance is made and accepted subject to the following matters, to the extent the same are still in force and effect:

See attached "Exhibit B" for matters of record.

**TO HAVE AND TO HOLD** the above-described Property, together with all and singular the rights and appurtenances thereto in any wise belonging, unto the above-named Grantee and Grantee's heirs, successors, and assigns forever. Grantor does bind Grantor and Grantor's heirs, successors, and assigns to WARRANT AND DEFEND, all and singular, the said Property unto the said Grantee and Grantee's heirs, successors, and assigns, against every person whomsoever, lawfully claiming or to claim the same, or any part thereof.

[Remainder of page intentionally blank]



File No.: 5141004033

**EXHIBIT "A"**

Lot 1, Block 1, of LA GRANGE SPRINGS, LP SUBDIVISION, an addition to the City of La Grange, Fayette County, Texas, according to the plat thereof recorded in/under Volume 2, Page 284, Plat Records, Fayette County, Texas.

Also being known as follows:

Being an 8.000-acre (348,480 square feet) tract of land out of the FAYETTE COUNTY SCHOOL LAND SURVEY, Abstract No. 183 and the WILLIAM H. CARSON SURVEY NO. 21, Abstract No. 28, said 8.000-acre tract also being out of a called 37.07-acre tract, described as Tract 2 conveyed from Joe A. Mihatsch, Jr. and wife, Linda A. Mihatsch by Warranty Deed dated February 8, 2008, recorded in Volume 1427, Page 480, Deed Records of Fayette County, Texas (D.R.F.C.T.), and said 8.000-acre tract being more particularly described as follows, with all bearings being referenced to North American Datum of 1983, Texas Coordinate System, (2011 Adjustment, Epoch 2010.00) South Central Zone:

COMMENCING at a found 1/2-inch iron rod being the west corner of a called 21.96-acre tract conveyed to Emmett Johnson, Jr. by Deed executed June 7, 1995, recorded in Volume 925, Page 48, D.R.F.C.T. and an interior corner of said 37.07-acre tract;

THENCE, South 07°38'25" West, along the west line of said 21.96-acre tract and the east line of said 37.07-acre tract, a distance of 328.62 feet to a set 1/2-inch iron rod with red cap stamped "VICKREY PROP. COR.", for the POINT OF BEGINNING and the northeast corner of the herein described tract;

THENCE, South 07°38'25" West, continuing along the west line of said 21.96-acre tract and the east line of said 37.07-acre tract, a distance of 435.97 feet to a point at a non-tangent curve to the right in the existing north right-of-way line of FM 2145 (100-foot wide right-of-way) as described in Volume 285, Page 323, D.R.F.C.T., being the southwest corner of said 21.96-acre tract and for the southeast corner of said 37.07-acre tract and the herein described parcel from which a found 1/2-inch iron rod bears South 07°38'25" West, a distance of 0.87 feet;

THENCE, along the existing north right-of-way line of FM 2145 and the south line of said 37.07-acre tract, the following three (3) calls:

1. Along said non-tangent curve to the right, an arc distance of 549.70 feet, with a radius of 1,859.90 feet, a central angle of 16°56'02", and a chord bearing and distance of South 68°10'21" West, 547.70 feet to a set 1/2-inch iron rod with red cap stamped "VICKREY PROP. COR." for a corner of said 37.07-acre tract and the herein described tract;

2. South 76°38'22" West, a distance of 93.90 feet to a set 1/2-inch iron rod with red cap stamped "VICKREY PROP. COR.", for the south corner of said 37.07-acre tract and the herein described tract;

3. North 12°55'48" West, a distance of 86.96 feet to a set 1/2-inch iron rod with red cap stamped "VICKREY PROP. COR." in the existing east right-of-way line of US 77 (100-foot wide right-of-way) as described in Volume 156, Page 535, D.R.F.C.T., for the southwest corner of said 37.07-

acre tract and the herein described tract;

THENCE North 16°40'03" East, along the existing east right-of-way line of US 77 and the west line of said 37.07-acre tract, a distance of 742.86 feet to a set 1/2-inch iron rod with red cap stamped "VICKREY PROP. COR.", for the northwest corner of the herein described tract from which a found TxDOT Type I monument bears North 16°40'03" East, a distance of 972.84 feet for a corner of said 37.07-acre tract;

THENCE South 73°19'57" East, into and across said 37.07-acre tract, a distance of 484.51 feet to the POINT OF BEGINNING and containing 8.000 acres (348,480 square feet) of land.

*Note: The Company is prohibited from insuring the area or quantity of the land described herein. Any statement in the legal description contained in Schedule "A" as to area or quantity of land is not a representation that such area or quantity is correct, but is made only for informal identification purposes and does not override Item 2 of Schedule "B" hereof.*

**EXHIBIT "B"**  
**(Permitted Encumbrances)**

1. All applicable city, state and county real and personal property taxes for the year 2020 and subsequent years which are liens not yet due and payable.
2. All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges and immunities relating thereto, appearing in the Official Public Records of Fayette County, Texas.
3. Easement executed by Johanna Moss, to the State of Texas, dated December 11, 1961, filed July 2, 1962, recorded in/under Volume 339, Page 457, of the Real Property Records of Fayette County, Texas.
4. Easement executed by Miles L. Moss, to Fayette Electric Cooperative, Inc., dated May 9, 1981, filed April 2, 1982, recorded in/under Volume 600, Page 833, of the Real Property Records of Fayette County, Texas.
5. Terms, conditions and stipulations contained in District Rules executed by Fayette County Groundwater Conservation District, dated December 19, 2003, filed April 8, 2004, recorded in/under Volume 1260, Page 142 and as affected by Volume 1384, Page 493 of the Real Property Records of Fayette County, Texas.
6. Terms, conditions and stipulations contained in Flood Damage Prevention Regulations executed by Fayette County, dated July 3, 2017, filed July 5, 2017, recorded in/under Volume 1822, Page 706 of the Real Property Records of Fayette County, Texas.

12/30/2020 1:41:36 PM

STATE OF TEXAS COUNTY OF FAYETTE  
I hereby certify that this instrument was FILED on the  
date and at the time stamped hereon by me and was duly  
RECORDED in the Volume and Page of the OFFICIAL RECORDS  
of Fayette County, Texas as stamped hereon above time.

BRENDA FIETSAM, COUNTY CLERK

Stamp: 5 Page(s)

HH



12/1/2020 1:18:46 PM

STATE OF TEXAS COUNTY OF FAYETTE  
I hereby certify that this instrument was FILED on the  
date and at the time stamped hereon by me and was duly  
RECORDED in the Volume and Page of the OFFICIAL RECORDS  
of Fayette County, Texas as stamped hereon above time.

BRENDA FIETSAM, COUNTY CLERK

Stamp: 4 Page(s)

Handwritten signature in blue ink.



**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

NATIONAL COMMERCIAL TITLE SERVICES DIVISION  
1125 Sanctuary Parkway, Suite 140, Alpharetta, Georgia 30009 (800-282-5972)

**SETTLEMENT STATEMENT**

CLOSING DATE: November 24, 2020

FILE NO.: GA20005908

**SELLER:** JORDAN CREEK INVESTMENTS, LLP,  
a Texas limited liability partnership  
681 S. College Street, La Grange, TX

**BUYER:** LA GRANGE SPRINGS, LP,  
a Alabama limited partnership  
404 East McKinney Ave., Albertville AL 35950

**SETTLEMENT AGENT:** OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY

**PROPERTY:** 8+/- acres located at the NEC or Hwy 77 and CR 2145  
La Grange, Fayette County, TX

	<u>SELLER</u>	<u>BUYER</u>
<u>SALE/PURCHASE PRICE</u>	\$ 320,000.00	\$ (320,000.00)
<u>ADJUSTMENTS AND PRORATIONS:</u>		
Earnest Money Released to Seller	\$ (16,250.00)	\$ 16,250.00
2020 Real Estate Taxes: \$33.63 / 366 = \$.092/day * 38 days	\$ 3.50	\$ (3.50)
<u>CHARGES AND DEDUCTIONS:</u>		
Loan Payoff for Partial Release to The First National Bank of Eagle Lake	\$ (10,000.00)	
Broker Commission to Applebe Ranch Homes Realty	\$ (9,600.00)	
Estimated Roll Back Taxes	\$ (5,635.62)	
Payment of 2020 Taxes	\$ (33.63)	
Earnest Money in Escrow		\$ -
<b>AMOUNT DUE SELLER</b>	<b>\$ 278,484.25</b>	
<b>NET AMOUNT DUE FROM BUYER</b>		<b>\$303,753.50</b>

(Signatures on following page)



**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**  
NATIONAL COMMERCIAL TITLE SERVICES DIVISION  
1125 Sanctuary Parkway, Suite 140, Alpharetta, Georgia 30009 (800-282-5972)

**SETTLEMENT STATEMENT**

CLOSING DATE: November 24, 2020

FILE NO.: GA20005908

Seller and Buyer understand that Old Republic National Title Insurance Company has assembled the information reflected on the Settlement Statement from the best information available from other sources as reflected in the invoices and statements attached hereto and made a part hereof, and cannot guarantee the accuracy thereof. Any real estate agent or lender involved may be furnished a copy of this statement. Seller and Buyer understand that tax and insurance proration and reserves may have been based on figures for the preceding year or may have been supplied by others, or may be estimates for the current year, and in the event of any change for the current year, all necessary adjustments must be made between Buyer and Seller directly and outside of this Settlement Statement. The undersigned hereby authorize Old Republic National Title Insurance Company to make expenditures and disbursements as shown above and approve the same for payment. The undersigned also acknowledge receipt of a copy of this Statement. Seller acknowledges that this Settlement Statement shall constitute a substitute 1099 and acknowledges receipt of the same.

**BUYER:**

LA GRANGE SPRINGS, LP,  
a Alabama limited partnership

By: 

Name: Jeff Beaver

Title: MANAGER of GP

**SELLER:**

JORDAN CREEK INVESTMENTS, LLP,  
a Texas limited liability partnership

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY**

NATIONAL COMMERCIAL TITLE SERVICES DIVISION

1125 Sanctuary Parkway, Suite 140, Alpharetta, Georgia 30009 (800-282-5972)

**SETTLEMENT STATEMENT**

**CLOSING DATE: November 24, 2020**

**FILE NO.: GA20005908**

Seller and Buyer understand that Old Republic National Title Insurance Company has assembled the information reflected on the Settlement Statement from the best information available from other sources as reflected in the invoices and statements attached hereto and made a part hereof, and cannot guarantee the accuracy thereof. Any real estate agent or lender involved may be furnished a copy of this statement. Seller and Buyer understand that tax and insurance proration and reserves may have been based on figures for the preceding year or may have been supplied by others, or may be estimates for the current year, and in the event of any change for the current year, all necessary adjustments must be made between Buyer and Seller directly and outside of this Settlement Statement. The undersigned hereby authorize Old Republic National Title Insurance Company to make expenditures and disbursements as shown above and approve the same for payment. The undersigned also acknowledge receipt of a copy of this Statement. Seller acknowledges that this Settlement Statement shall constitute a substitute 1099 and acknowledges receipt of the same.

**BUYER:**

**LA GRANGE SPRINGS, LP,  
a Alabama limited partnership**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SELLER:**

**JORDAN CREEK INVESTMENTS, LLP,  
a Texas limited liability partnership**

By:   
Name: Joe A. Mikatsch  
Title: Partner  
  
Partner

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan relating to the Maximum Supplemental Request Limit for Artcraft Palms (#20297) in El Paso.

**RECOMMENDED ACTION**

**WHEREAS**, an award of competitive 9% housing tax credits (HTC) to an Application for the development of Artcraft Palms (the Development) was approved by the Board in July 2020, for the construction of 124 multifamily units in El Paso, El Paso County;

**WHEREAS**, the Applicant has represented to the Department that increased construction costs as well as complications related to the pandemic have resulted in the completion of the Development being potentially infeasible without additional funding;

**WHEREAS**, the 2022 Qualified Allocation Plan (QAP) allows for additional supplemental credit awards to be made to applications from the 2019 and 2020 competitive HTC rounds with a demonstrated need for additional funding, with a limit set at seven percent of the original award amount; and

**WHEREAS**, the applicant has represented that a supplemental award of 15% of the original award amount is necessary to ensure feasibility, and the waiver request demonstrates that this need is not within the owner's control.

**NOW, therefore, it is hereby**

**RESOLVED**, that the waiver of 10 TAC §11.1003(b) of the 2022 QAP concerning the Maximum Supplemental Request Limit for Artcraft Palms is approved.

**BACKGROUND**

Artcraft Palms is a 2020 competitive HTC award of \$1,232,778, which proposed the construction of 124 multifamily units serving the general population in El Paso, El Paso County. Of the 124 units, 24 are market-rate and 100 are affordable, with income and rent restrictions ranging from 30% to 60% of AMFI. As of January 26, 2022, Artcraft Palms is more than 40% complete.

In response to increased construction costs resulting from the ongoing pandemic, the 2022 QAP includes a new Subchapter F which allows for 2019 and 2020 competitive HTC awards to request additional

supplemental HTC funding of up to seven percent of the initial award. \$5,000,000 was allowed from the 2022 HTC ceiling to fund these requests, and the Department received requests totaling \$3,962,971. The requests are currently under review, and any remaining funds from the allowed \$5,000,000 will be available during the 2022 round for other HTC applications.

On January 26, 2022, the Department received a waiver request from the applicant for Artcraft Palms. The request details the difficulties and cost increases that the applicant has encountered during construction. Specifically:

The initial spike in the price of lumber in December 2021 seemed to be just temporary in nature, given that in mid-November 2021 (and for several months prior) the price of lumber was seeming to stabilize below the \$750 per thousand board feet mark. However, prices did not stabilize after Supplemental Credit Request submittal, they instead skyrocketed again above the \$1,100 per thousand board feet mark—where they are today. Most of the lumber has been purchased for this project in the past 60 days, with pricing reflecting this spike in the price of lumber. A lumber supplier in the El Paso service-area willing to lock-in lumber pricing over the past year could not be found, fully exposing the Development to any price volatility.

Based on the original award amount of \$1,232,778, the allowable limit for the supplemental request is \$86,294; however, updated financial documents submitted by the applicant indicate that an additional award of \$184,916, or 15% of the initial amount, is necessary to guarantee feasibility.

Staff has reviewed the supporting materials accompanying this waiver request and recommends the Board approve the waiver.

**From:** [Bob Bowling4](#)  
**To:** [Colin Nickells](#)  
**Cc:** [Cody Campbell](#); [Demetrio Jimenez](#); [Eva Davalos-Badajosa](#)  
**Subject:** RE: Supplemental 9% HTC Waivers  
**Date:** Monday, January 24, 2022 5:33:25 PM  
**Attachments:** [2022 TDHCA Utility Allowance Letter.pdf](#)  
[Artcraft Palms Rent Schedule 1.17.22.pdf](#)  
[Artcraft Proforma 1.17.22.pdf](#)  
[Artcraft Development Schedule 1.17.22.pdf](#)  
[Artcraft Palms Change Order #1 Signed.pdf](#)  
[Artcraft Sources of Funds Schedule 1.18.22.pdf](#)  
[Artcraft Application and Contact Information 1.17.22.pdf](#)  
[Syndicator Purchase Letter 1.18.22.pdf](#)  
[Random Lengths Lumber Prices Chart 1.24.22.pdf](#)

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Cody and Colin,

I submitted this information prior to the notice Colin sent out on Friday, so I am resubmitting the below and attached along with some added narrative to address the requirement in the Friday notice. Sorry if this is redundant, I just want to make sure I am covered per the requirements of **my request of waiver of the published 7% cap on Supplemental Credits for Artcraft Palms (application #20297)**.

Please find the following information attached that has changed on Artcraft Palms:

- An updated (higher) utility allowance schedule for 2022 submitted to us by the Department on January 4, 2022 that lowers net low-income rents to be charged for Artcraft Palms.
- An updated Rent Schedule reflecting the new, lower net low-income rents (adjusting for the recently received Utility Allowance) as well as a corrected error in the “Provision for Vacancy and Collection Loss” in which we previously represented 5% for this item and have corrected to demonstrate the standard 7.5% per Subchapter D (“Underwriting and Loan Policy”) of the QAP.
- An updated 15 Year Pro Forma, signed by the permanent lender, reflecting these changes in cash flow.
- An updated Development Cost Schedule reflecting updated pricing. Please note on this exhibit that the “Contingency” line item has been “zeroed out”—meaning that the original budgeted contingency amount of \$721,000 has been applied to line items that have far exceeded the original budgeted amounts. Any additional unforeseen events that may occur from this point on will have to be paid for out of the “Developer Fee” line item and payment deferred as a permanent source.
- A Change Order approved by the Project Architect, as well as back-up documentation to the change order.
- A chart from the “Random Lengths” lumber pricing service, showing the increase in lumber pricing from the time that we worked on our original Supplemental Credit Request through today (1/24/22). Per this chart, the initial spike in December seemed to be just temporary in nature, given that in mid-November (and for several months prior) the price of lumber was seeming to stabilize below the \$750 per thousand board feet mark. However, prices did not stabilize after our submittal, they instead skyrocketed again above the \$1,100 per thousand board feet mark—where they are today. Most of our lumber has been purchased for this project in the past 60 days, with pricing reflecting this huge lumber spike (important to note

here is the fact that we could not find ANY lumber supplier in the El Paso service-area willing to lock-in lumber pricing over the past year, fully exposing us to any price volatility). We had hoped that we would be able to realize some savings from our original lumber cost projections back in the beginning of the summer, however, pricing today is right back where it was 7 months ago after a brief dip in pricing in the fall.

- An updated Schedule of Funds and Financing Narrative, signed by the permanent lender, reflecting the new, proposed financing structure. Note that we were able to negotiate a 4.97% permanent interest rate--a more favorable rate for the development than the 5.12% that was originally proposed by the lender as the lender did everything they could to help see to it that Artcraft Palms gets built as a Low Income Housing Tax Credit development, including lowering their "spread" on the rate. Also, keep in mind that **the permanent loan is NOT CLOSED and subject to re-underwriting** at time of conversion for size of the loan. All we have at this point is a forward commitment letter with a locked interest rate.
- An updated Original Application and Contact Information sheet, reflecting our increased Supplemental Credit Request to 15% (\$184,916) of our original award of credits.
- An updated letter from the syndicator, indicating that the original Limited Partner/Investor will "buy" (actually, invest more capital as a limited partner in exchange for the use of additional credits) the additional credits at the originally negotiated price of 93 cents.

Per these last 2 items listed above regarding our updated request for Supplemental Credits, we realize that our credit request now exceeds the stated maximum request of 7% published and approved in the 2022, however due to Force Majeure events that are beyond our control and unforeseen, **we request a rule waiver with regard to this maximum request specific to our Artcraft Palms development.** The application is, by TDHCA rule (specifically, Subchapter D "Underwriting and Loan Policy/10TAC sections 11.301-11.306), "Infeasible" without this additional issuance of credits, however the addition of 15% more credits will make the deal "feasible" again.

The project is now over 40% complete and on schedule to be Placed-in-Service by July of 2022 if these additional credits are granted. Without the funds generated from this additional request of Supplemental Credits, the project is in jeopardy of not being completed as a Low Income Housing Development and having the units not added to the badly needed affordable housing stock in El Paso, Texas, which would be very unfortunate for our state and the community of El Paso.

Finally, I would like to point out that at Tropicana, we are still negotiating our contracts with subcontractors and suppliers as aggressively as possible, with a lot of relative success compared to others in the marketplace. **Even after this Change Order, our Building Cost Per Square foot is below \$90 per square foot and well below the 2021 Marshal & Swift's market survey for our market area of \$103.63 per square foot.**

**R. L. "Bobby" Bowling IV**  
**President**  
**Tropicana Building**

**2505 E. Missouri Ave., Suite 300**  
**El Paso, Texas 79903**  
**(915) 821-3550**  
[www.tropicanaproperties.org](http://www.tropicanaproperties.org)

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**From:** Colin Nickells <colin.nickells@tdhca.state.tx.us>  
**Sent:** Friday, January 21, 2022 3:38 PM  
**To:** Colin Nickells <colin.nickells@tdhca.state.tx.us>  
**Cc:** Cody Campbell <cody.campbell@tdhca.state.tx.us>  
**Subject:** Supplemental 9% HTC Waivers

Hello,

Thank you for your timely response to the Department's request for notification of intent to submit a waiver request related to Supplemental Credit Requests.

As mentioned in my initial email, The increased Supplemental Credit Requests and waiver requests will need to be submitted by Wednesday January 26th in order to take your waiver request to the February Board meeting. Applications submitting a waiver request will be presented for approval for Supplemental Credits at the March Board meeting, subject to underwriting.

If seeking a waiver of the 7% cap on Supplemental Credit allocations, the complete waiver request submitted by January 26th must include an updated Original Application and Contact Information page, S&U exhibit, and Development Cost Schedule along with all necessary information to support the request (construction contracts, equity letter stating dollar amount of credit they will buy and at what price, any other back up for changes to the application, etc). Please include a detailed narrative on what unforeseen circumstances have occurred that led to the need for increased Supplemental Credits from the original Supplemental Credit Request submitted in December 2021. Also, please include the percentage of construction complete on the project. More information on waivers can be found in §11.207 of the 2022 QAP. Interested applicants may also wish to review the January 13, 2022 Board meeting at the following link: <https://www.tdhca.state.tx.us/board/meetings.htm>.

If you have any questions, please reach out to me at [colin.nickells@tdhca.state.tx.us](mailto:colin.nickells@tdhca.state.tx.us).

Best,  
Colin

Colin Nickells  
Competitive (9%) Housing Tax Credit Manager  
Texas Department of Housing and Community Affairs  
Office: 512.936.7834

Any person receiving guidance from TDHCA staff should be mindful that, as set forth in 10 TAC Section 11.1(b) there are important limitations and caveats (Also see 10 TAC §11.2(a)).

External Email: This Email originated outside Tropicana Homes.

7f



**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action regarding approval of Supplemental Housing Tax Credit requests for the 2022 Competitive Housing Tax Credit Application Round

19074	900 Winston	Houston
19189	Lakewood Crossing	Granbury
19202	Heritage Heights at Big Spring	Big Spring
19214	Lakeridge Villas	Ennis
19216	Heritage Heights at Abilene	Abilene
19225	Rosewood Senior Villas	Tyler
19236	Tool Cedar Trails	Tool
19330	Avanti West	Edinburg
19331	Avanti Legacy at Emerald Point	McAllen
19364	The Villas at Pine Grove	Lufkin
20011	Canal Lofts	Houston
20054	Gulf Shore Villas	Rockport
20075	New Hope Housing Savoy	Houston
20147	Kestrel on Cooper	Arlington
20181	Avanti Valley View	Hidalgo
20186	Residence at Ridgehill	Kerrville
20204	Heritage Senior Residences	Houston
20211	Ennis Trails	Ennis
20212	Vernon Pioneer Crossing	Vernon
20262	Abbingtion Park	Henderson
20268	Inkwood Estates	Clint
20272	Westwind of Dumas	Dumas
20306	The Trails of Abilene	Abilene

**RECOMMENDED ACTION**

**WHEREAS**, 10 TAC §11.1003(a) of the 2022 Qualified Allocation Plan (QAP) allows up to \$5,000,000 to be allocated as supplemental funding for 2019 and 2020 9% Housing Tax Credit (HTC) awards which have experienced cost increases related to the COVID-19 pandemic; and

**WHEREAS**, the Department timely received 35 requests for supplemental allocations, 13 of which have since requested a waiver and will be presented to the Board in a subsequent meeting upon the resolution of those waivers.

**NOW, therefore, it is hereby**

**RESOLVED**, that the list of recommended requests for supplemental Housing Tax Credits from the 2022 State Competitive Housing Credit Ceiling are hereby approved in the form presented at this meeting; and

**FURTHER RESOLVED**, that the Board's approval is conditioned upon the completion of underwriting, the imposing of all conditions of underwriting, the imposing of the conditions previously recommended by the Executive Award Review and Advisory Committee and those resulting from staff review, the completion of any other reviews required to ensure compliance with the applicable rules and requirements for the Competitive Housing Tax Credit Program, and any other special conditions the Board may consider appropriate.

### **BACKGROUND**

The supplemental Housing Tax Credit recommendations are presented in the Board materials. All requests recommended on the lists have been cleared for award, or award with conditions, by Compliance and Program staff for purposes of a recommendation from the Executive Award and Review Advisory Committee (EARAC) during either the 2019 or 2020 Competitive HTC rounds. To the extent that some supplemental requests do not yet have a final underwriting or program assessment, those requests will be considered conditionally recommended, with the condition being the completion of the underwriting and/or program assessment and recommendation of award, or award with conditions. For any supplemental allocations made by the Board by this item that subsequently are recommended by underwriting with conditions, these conditions will be considered to be the Board's conditions of the award.

#### ***Reports located in the Board Book***

- Report 1: Recommended Requests from the At-Risk, USDA, and Nonprofit Set-Asides and the Rural and Urban Regional Allocations.
- Report 2: Active Requests from the At-Risk, USDA, and Nonprofit Set-Asides and the Rural and Urban Regional Allocations, inclusive of those which have requested a waiver relating to supplemental credits.

#### **REQUEST SUBMISSIONS**

There are currently 35 requests eligible for consideration, which are collectively requesting credits totaling approximately \$3,962,971. Of these, 13 requests totaling approximately \$2,517,730 have submitted requests for waivers, presented today separately, which will be brought to the Board in a subsequent meeting upon resolution of those waivers. The remaining

22 awards, totaling approximately \$1,598,741, are recommended for approval today and are reflected in Report 1. The ultimate amount of the credit awarded will be reflected in the underwriting report. Additionally, staff may identify through the review process cost increases which either do not appear to meet the intention of Subchapter F or otherwise require additional evaluation. Identified costs may be excluded by staff from consideration for funding. Staff will evaluate these costs individually and may present them to the Board for resolution if necessary.

The following table lists all 22 developments, the funding amount requested, the funding amount as a percentage of the initial LIHTC award, and whether the development has a current application for Multifamily Direct Loan (MFDL) funding from the Department (developments with prior MFDL funds unrelated to cost increases are not included).

	<b>Development</b>	<b>Request</b>	<b>Percent</b>	<b>Current MFDL Application</b>
19074	900 Winston	\$ 105,000.00	7.00%	
19189	Lakewood Crossing	\$ 43,050.00	7.00%	
19202	Heritage Heights at Big Spring	\$ 63,000.00	7.00%	
19214	Lakeridge Villas	\$ 43,054.00	7.00%	
19216	Heritage Heights at Abilene	\$ 42,000.00	7.00%	
19225	Rosewood Senior Villas	\$ 86,428.49	5.76%	
19236	Tool Cedar Trails	\$ 66,657.00	7.00%	
19330	Avanti West	\$ 74,990.00	5.00%	
19331	Avanti Legacy at Emerald Point	\$ 74,990.00	5.00%	
19364	The Villas at Pine Grove*	\$ 150,795.00	15.00%	
20011	Canal Lofts	\$ 105,000.00	7.00%	
20054	Gulf Shore Villas	\$ 40,000.00	4.07%	
20075	New Hope Housing Savoy	\$ 103,030.00	7.00%	
20147	Kestrel on Cooper	\$ 65,000.00	4.33%	
20181	Avanti Valley View	\$ 63,325.00	4.50%	
20186	Residence at Ridgehill	\$ 62,809.00	7.00%	X
20204	Heritage Senior Residences	\$ 100,611.77	7.00%	
20211	Ennis Trails	\$ 40,000.00	6.63%	
20212	Vernon Pioneer Crossing	\$ 44,369.00	5.38%	X
20262	Abbingtion Park	\$ 63,307.00	6.90%	
20268	Inkwood Estates	\$ 51,750.00	5.75%	
20272	Westwind of Dumas	\$ 49,230.00	7.00%	X
20306	The Trails of Abilene	\$ 57,639.68	7.00%	

\*The Villas at Pine Grove (#19364) was previously granted a waiver of of 10 TAC §11.1003(b) of the 2022 Qualified Allocation Plan during the January 2022 meeting.

## **Report 1**

### **Allocation Recommendations**



## Texas Department of Housing and Community Affairs 2022 Supplemental 9% Credit - Approval Recommendations

The list is organized by region and subregion. Requesters of supplemental credits with Original Applications within the At-Risk/USDA Set-Asides are listed first and are organized by best possible score rather than by region. Thirteen additional requests not represented on this log have submitted waiver requests related to supplemental credits and will be recommended to the Board as soon as possible upon resolution of the waiver requests.

Date: February 10th, 2022

Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Target Population (Supp. Hsg. = SH)	2022 Credits Requested	Applicant Contact Name	Census Tract(s)	Best Possible Score
<b>At-Risk Set-Aside</b>															
<b>Estimated At-Risk Available</b>		<b>\$750,000</b>										<b>Total HTC's Requested</b>		<b>\$ -</b>	
<b>Region 1/Rural</b>															
20272	Westwind of Dumas	331 W. 16th Street	Dumas	79029	Moore	1	Rural				General	\$ 49,230.00	Lora Myrick	48341950200	166
<b>Estimated Amount Available</b>		<b>\$44,841</b>										<b>Total HTC's Requested</b>		<b>\$ 49,230.00</b>	
<b>Region 1/Urban</b>															
<b>Estimated Amount Available</b>		<b>\$79,977</b>										<b>Total HTC's Requested</b>		<b>\$ -</b>	
<b>Region 2/Rural</b>															
20212	Vernon Pioneer Crossing	1916 Stadium Drive	Vernon	76384	Wilbarger	2	Rural				Elderly	\$ 44,369.00	Lora Myrick	48487950600	161
<b>Estimated Amount Available</b>		<b>\$40,000</b>										<b>Total HTC's Requested</b>		<b>\$ 44,369.00</b>	
<b>Region 2/Urban</b>															
20306	The Trails of Abilene	733 ES 27th St.	Abilene	79602	Taylor	2	Urban				General	\$ 57,639.68	Adrian Iglesias	48441012000	166
19216	Heritage Heights at Abilene	2401 S. 25th Street	Abilene	79605	Taylor	2	Urban				Elderly	\$ 42,000.00	Adrian Iglesias	48441012300	155
<b>Estimated Amount Available</b>		<b>\$40,000</b>										<b>Total HTC's Requested</b>		<b>\$ 99,639.68</b>	
<b>Region 3/Rural</b>															
20211	Ennis Trails	SEQ Dolfie Lane and Sonoma T Ennis		75119	Ellis	3	Rural				General	\$ 40,000.00	Michael Fogel	48139061700	166
19214	Lakeridge Villas	2500 W. Ennis Ave.	Ennis	75119	Ellis	3	Rural				Elderly	\$ 43,054.00	Ryan Hudspeth	48139061400	153
19189	Lakewood Crossing	300 S Park	Granbury	76048	Hood	3	Rural				General	\$ 43,050.00	Justin Zimmerman	48221160100	138
<b>Estimated Amount Available</b>		<b>\$40,000</b>										<b>Total HTC's Requested</b>		<b>\$ 126,104.00</b>	

**Region 3/Urban**

20147 Kestrel on Cooper	2017-2025 S. Cooper St.	Arlington	76010 Tarrant	3 Urban	General	\$	65,000.00	Megan Lasch	48439122801	171
<b>Estimated Amount Available</b>	<b>\$987,864</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>65,000.00</b>			

**Region 4/Rural**

20262 Abbington Park	321 S. Standish Street	Henderson	75654 Rusk	4 Rural	Elderly	\$	63,307.00	Breck Kean	48401950800	166
19236 Tool Cedar Trails	NEQ N Tool Dr. and Oak Cir.	Tool	75143 Henderson	4 Rural	Elderly	\$	66,657.00	Michael Fogel	48213950800	120
<b>Estimated Amount Available</b>	<b>\$88,912</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>129,964.00</b>			

**Region 4/Urban**

19225 Rosewood Senior Villas	2929 Calloway Road	Tyler	75707 Smith	4 Urban	Elderly	\$	86,428.49	Donna Rickenbacker	48423001803	111
<b>Estimated Amount Available</b>	<b>\$86,428</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>86,428.49</b>			

**Region 5/Rural**

19364 The Villas at Pine Grove	2602 S John Redditt Drive	Lufkin	75904 Angelina	5 Rural	Elderly	\$	153,500.00	Rick J. Deyoe	48005000902	120
<b>Estimated Amount Available</b>	<b>\$66,652</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>153,500.00</b>			

**Region 5/Urban**

<b>Estimated Amount Available</b>	<b>\$60,029</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>			
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**Region 6/Rural**

<b>Estimated Amount Available</b>	<b>\$40,000</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>			
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**Region 6/Urban**

20075 New Hope Housing Savoy (received	6315 Savoy Drive	Houston	77036 Harris	6 Urban	X Supp Hsg	\$	103,030.00	Emily Abeln	48201432801	177
20011 Canal Lofts	5601 Canal Street	Houston	77011 Harris	6 Urban	General	\$	105,000.00	Nathan Kelley	48201310500	176
20204 Heritage Senior Residences	1120 Moy Street	Houston	77007 Harris	6 Urban	Elderly	\$	100,611.77	Carine Yhap	48201510600	176
19074 900 Winston	900 Winston	Houston	77009 Harris	6 Urban	Elderly	\$	105,000.00	Amay Inamdar	48201511400	127
<b>Estimated Amount Available</b>	<b>\$943,796</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>413,641.77</b>			

**Region 7/Rural**

<b>Estimated Amount Available</b>	<b>\$40,000</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>			
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**Region 7/Urban**

<b>Estimated Amount Available</b>	<b>\$267,161</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>			
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**Region 8/Rural**

<b>Estimated Amount Available</b>	<b>\$43,164</b>				<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>			
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<b>Region 8/Urban</b>										
<b>Estimated Amount Available</b>	<b>\$150,071</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>	
<b>Region 9/Rural</b>										
20186 Residence at Ridgehill	160-170 Lehmann Dr	Kerrville	78020 Kerr	9 Rural	Elderly	\$	62,809.00	April Engstrom	48265960402	150
<b>Estimated Amount Available</b>	<b>\$40,000</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>62,809.00</b>	
<b>Region 9/Urban</b>										
<b>Estimated Amount Available</b>	<b>\$345,760</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>	
<b>Region 10/Rural</b>										
20054 Gulf Shore Villas	1400 FM 3036	Rockport	78382 Aransas	10 Rural		\$	40,000.00	Rick J. Deyoe	48007950300	168
<b>Estimated Amount Available</b>	<b>\$41,183</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>40,000.00</b>	
<b>Region 10/Urban</b>										
<b>Estimated Amount Available</b>	<b>\$81,386</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>	
<b>Region 11/Rural</b>										
20181 Avanti Valley View	1000 N. Jackson Rd	Hidalgo	78557 Hidalgo	11 Rural	General	\$	63,325.00	Enrique Flores	48215021305	170
<b>Estimated Amount Available</b>	<b>\$63,326</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>63,325.00</b>	
<b>Region 11/Urban</b>										
19330 Avanti Legacy at Emerald Point	3300 N K Center	McAllen	78501 Hidalgo	11 Urban	Elderly	\$	74,990.00	Henry Flores	48215020904	122
19331 Avanti at Emerald Point	3301 N Jackson Rd	McAllen	78501 Hidalgo	11 Urban	General	\$	74,990.00	Henry Flores	48215020904	122
<b>Estimated Amount Available</b>	<b>\$378,077</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>149,980.00</b>	
<b>Region 12/Rural</b>										
19202 Heritage Heights at Big Spring	120 Airbase Rd	Big Spring	79720 Howard	2 Rural	Elderly	\$	63,000.00	Adrian Iglesias	48227950802	116
<b>Estimated Amount Available</b>	<b>\$40,000</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>63,000.00</b>	
<b>Region 12/Urban</b>										
<b>Estimated Amount Available</b>	<b>\$56,194</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>	
<b>Region 13/Rural</b>										
20268 Inkwood Estates	107 S. San Elizario Rd	Clint	79836 El Paso	13 Rural	General	\$	51,750.00	Roy Lopez	48141010404	141
<b>Estimated Amount Available</b>	<b>\$40,000</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>51,750.00</b>	
<b>Region 13/Urban</b>										
<b>Estimated Amount Available</b>	<b>\$145,178</b>						<b>Total HTCs Requested</b>	<b>\$</b>	<b>-</b>	
<b>Estimated Total Available</b>	<b>\$5,000,000</b>						<b>Total Amount Requested</b>	<b>\$</b>	<b>1,598,741</b>	

**Report 2**  
**All Active Requests**





## Texas Department of Housing and Community Affairs 2022 Supplemental 9% Credit - Active Requests

The list is organized by region and subregion. Requesters of supplemental credits with Original Applications within the At-Risk/USDA Set-Asides are listed first and are organized by best possible score rather than by region. Requests with highlighted amounts on this log have submitted waiver requests related to supplemental credits and will be recommended to the Board as soon as possible upon resolution of the waiver requests.

Date: February 10th, 2022

Application Number	Development Name	Development Address	City	ZIP Code	County	Region	Urban/Rural	At-Risk	USDA	Nonprofit	Target Population (Supp. Hsg. = SH)	2022 Credits Requested	Applicant Contact Name	Census Tract(s)	Best Possible Score
<b>At-Risk Set-Aside</b>															
20202	Pathways at Chalmers Courts West	NWC of Chalmers Ave. and Eas	Austin	78702	Travis	7	Urban	X	X		General	\$ 300,000.00	Suzanne Schwertner	48453000902	163
19077	Telephone Road Elderly	6000 Telephone Road	Houston	77087	Harris	6	Urban	X	X		Elderly	\$ 291,150.00	James Williams	48201332600	158
<b>Estimated At-Risk Available</b>		<b>\$750,000</b>							<b>Total HTC's Requested</b>			<b>\$ 591,150.00</b>			
<b>Region 1/Rural</b>															
20272	Westwind of Dumas	331 W. 16th Street	Dumas	79029	Moore	1	Rural				General	\$ 49,230.00	Lora Myrick	48341950200	166
<b>Estimated Amount Available</b>		<b>\$44,841</b>							<b>Total HTC's Requested</b>			<b>\$ 49,230.00</b>			
<b>Region 1/Urban</b>															
19088	Metro Tower Lofts	1220 Broadway Street	Lubbock	79401	Lubbock	1	Urban				General	\$ 159,954.00	Daniel Sailler, III	48303000700	159
<b>Estimated Amount Available</b>		<b>\$79,977</b>							<b>Total HTC's Requested</b>			<b>\$ 159,954.00</b>			
<b>Region 2/Rural</b>															
20212	Vernon Pioneer Crossing	1916 Stadium Drive	Vernon	76384	Wilbarger	2	Rural				Elderly	\$ 44,369.00	Lora Myrick	48487950600	161
<b>Estimated Amount Available</b>		<b>\$40,000</b>							<b>Total HTC's Requested</b>			<b>\$ 44,369.00</b>			
<b>Region 2/Urban</b>															
20306	The Trails of Abilene	733 ES 27th St.	Abilene	79602	Taylor	2	Urban				General	\$ 57,639.68	Adrian Iglesias	48441012000	166
19216	Heritage Heights at Abilene	2401 S. 25th Street	Abilene	79605	Taylor	2	Urban				Elderly	\$ 42,000.00	Adrian Iglesias	48441012300	155
<b>Estimated Amount Available</b>		<b>\$40,000</b>							<b>Total HTC's Requested</b>			<b>\$ 99,639.68</b>			
<b>Region 3/Rural</b>															
20211	Ennis Trails	SEQ Dolfie Lane and Sonoma T Ennis		75119	Ellis	3	Rural				General	\$ 40,000.00	Michael Fogel	48139061700	166

19214 Lakeridge Villas	2500 W. Ennis Ave.	Ennis	75119 Ellis	3 Rural	Elderly	\$ 43,054.00	Ryan Hudspeth	48139061400	153
19189 Lakewood Crossing	300 S Park	Granbury	76048 Hood	3 Rural	General	\$ 43,050.00	Justin Zimmerman	48221160100	138
<b>Estimated Amount Available</b>	<b>\$40,000</b>				<b>Total HTCs Requested</b>	<b>\$ 126,104.00</b>			
<b>Region 3/Urban</b>									
20018 The Park Tower	1209 Jacksboro Highway	Fort Worth	76114 Tarrant	3 Urban	General	\$ 204,796.00	Val DeLeon	48439100800	171
20147 Kestrel on Cooper	2017-2025 S. Cooper St.	Arlington	76010 Tarrant	3 Urban	General	\$ 65,000.00	Megan Lasch	48439122801	171
19315 Hammack Creek Apts	NEQ Kennedale Sublett Rd. and	Kennedale	76060 Tarrant	3 Urban	General	\$ 156,500.00	Deepak P. Sulakhe	48439111404	153
<b>Estimated Amount Available</b>	<b>\$987,864</b>				<b>Total HTCs Requested</b>	<b>\$ 426,296.00</b>			
<b>Region 4/Rural</b>									
20262 Abbingtion Park	321 S. Standish Street	Henderson	75654 Rusk	4 Rural	Elderly	\$ 63,307.00	Breck Kean	48401950800	166
20016 Reserve at Sulphur Springs	NWC of League Street and Bell	Sulphur Springs	75482 Hopkins	4 Rural	Elderly	\$ 93,000.00	Brian McGeady	48223950402	137
19236 Tool Cedar Trails	NEQ N Tool Dr. and Oak Cir.	Tool	75143 Henderson	4 Rural	Elderly	\$ 66,657.00	Michael Fogel	48213950800	120
<b>Estimated Amount Available</b>	<b>\$88,912</b>				<b>Total HTCs Requested</b>	<b>\$ 222,964.00</b>			
<b>Region 4/Urban</b>									
19225 Rosewood Senior Villas	2929 Calloway Road	Tyler	75707 Smith	4 Urban	Elderly	\$ 86,428.49	Donna Rickenbacker	48423001803	111
<b>Estimated Amount Available</b>	<b>\$86,428</b>				<b>Total HTCs Requested</b>	<b>\$ 86,428.49</b>			
<b>Region 5/Rural</b>									
19364 The Villas at Pine Grove	2602 S John Redditt Drive	Lufkin	75904 Angelina	5 Rural	Elderly	\$ 153,500.00	Rick J. Deyoe	48005000902	120
<b>Estimated Amount Available</b>	<b>\$66,652</b>				<b>Total HTCs Requested</b>	<b>\$ 153,500.00</b>			
<b>Region 5/Urban</b>									
<b>Estimated Amount Available</b>	<b>\$60,029</b>				<b>Total HTCs Requested</b>	<b>\$ -</b>			
<b>Region 6/Rural</b>									
<b>Estimated Amount Available</b>	<b>\$40,000</b>				<b>Total HTCs Requested</b>	<b>\$ -</b>			
<b>Region 6/Urban</b>									
20075 New Hope Housing Savoy (receiver	6315 Savoy Drive	Houston	77036 Harris	6 Urban	X Supp Hsg	\$ 103,030.00	Emily Abeln	48201432801	177
20011 Canal Lofts	5601 Canal Street	Houston	77011 Harris	6 Urban	General	\$ 105,000.00	Nathan Kelley	48201310500	176
20204 Heritage Senior Residences	1120 Moy Street	Houston	77007 Harris	6 Urban	Elderly	\$ 100,611.77	Carine Yhap	48201510600	176
20205 Ella Grand	2077 S Gessner Rd.	Houston	77063 Harris	6 Urban	Elderly	\$ 225,000.00	Janine Sisak	48201431101	175
19074 900 Winston	900 Winston	Houston	77009 Harris	6 Urban	Elderly	\$ 105,000.00	Amay Inamdar	48201511400	127
19085 Gala at MacGregor	Approx 102 Carson Ct.	Houston	77004 Harris	6 Urban	Elderly	\$ 218,964.00	Amy Dosen	48201312600	125
<b>Estimated Amount Available</b>	<b>\$943,796</b>				<b>Total HTCs Requested</b>	<b>\$ 857,605.77</b>			

**Region 7/Rural**

20273 La Grange Springs	NEC of Hwy 77 and CR 2145	La Grange	78945 Fayette	7 Rural	General	\$ 79,483.00	Robbye Meyer	48149970200	168
<b>Estimated Amount Available</b>	<b>\$40,000</b>				<b>Total HTCs Requested</b>	<b>\$ 79,483.00</b>			

**Region 7/Urban**

20192 Arbor Park	6306 McNeil Drive	Austin	78729 Travis	7 Urban	Elderly	\$ 225,000.00	Janine Sisak	48453001785	168
<b>Estimated Amount Available</b>	<b>\$267,161</b>				<b>Total HTCs Requested</b>	<b>\$ 225,000.00</b>			

**Region 8/Rural**

19238 Franklin Trails	S side of W. Decherd St., W of I Franklin		77859 Robertson	8 Rural	Elderly	\$ 40,550.00	Michael Fogel	48395960300	117
<b>Estimated Amount Available</b>	<b>\$43,164</b>				<b>Total HTCs Requested</b>	<b>\$ 40,550.00</b>			

**Region 8/Urban**

<b>Estimated Amount Available</b>	<b>\$150,071</b>				<b>Total HTCs Requested</b>	<b>\$ -</b>			
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**Region 9/Rural**

20186 Residence at Ridgehill	160-170 Lehmann Dr	Kerrville	78020 Kerr	9 Rural	Elderly	\$ 62,809.00	April Engstrom	48265960402	150
<b>Estimated Amount Available</b>	<b>\$40,000</b>				<b>Total HTCs Requested</b>	<b>\$ 62,809.00</b>			

**Region 9/Urban**

<b>Estimated Amount Available</b>	<b>\$345,760</b>				<b>Total HTCs Requested</b>	<b>\$ -</b>			
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**Region 10/Rural**

20054 Gulf Shore Villas	1400 FM 3036	Rockport	78382 Aransas	10 Rural		\$ 40,000.00	Rick J. Deyoe	48007950300	168
<b>Estimated Amount Available</b>	<b>\$41,183</b>				<b>Total HTCs Requested</b>	<b>\$ 40,000.00</b>			

**Region 10/Urban**

<b>Estimated Amount Available</b>	<b>\$81,386</b>				<b>Total HTCs Requested</b>	<b>\$ -</b>			
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**Region 11/Rural**

20181 Avanti Valley View	1000 N. Jackson Rd	Hidalgo	78557 Hidalgo	11 Rural	General	\$ 63,325.00	Enrique Flores	48215021305	170
<b>Estimated Amount Available</b>	<b>\$63,326</b>				<b>Total HTCs Requested</b>	<b>\$ 63,325.00</b>			

**Region 11/Urban**

19330 Avanti Legacy at Emerald Point	3300 N K Center	McAllen	78501 Hidalgo	11 Urban	Elderly	\$ 74,990.00	Henry Flores	48215020904	122
19331 Avanti at Emerald Point	3301 N Jackson Rd	McAllen	78501 Hidalgo	11 Urban	General	\$ 74,990.00	Henry Flores	48215020904	122
<b>Estimated Amount Available</b>	<b>\$378,077</b>				<b>Total HTCs Requested</b>	<b>\$ 149,980.00</b>			

**Region 12/Rural**

19202 Heritage Heights at Big Spring	120 Airbase Rd	Big Spring	79720 Howard	2 Rural	Elderly	\$ 63,000.00	Adrian Iglesias	48227950802	116
<b>Estimated Amount Available</b>	<b>\$40,000</b>					<b>Total HTC's Requested</b>	<b>\$ 63,000.00</b>		

**Region 12/Urban**

<b>Estimated Amount Available</b>	<b>\$56,194</b>					<b>Total HTC's Requested</b>	<b>\$ -</b>		
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**Region 13/Rural**

20268 Inkwood Estates	107 S. San Elizario Rd	Clint	79836 El Paso	13 Rural	General	\$ 51,750.00	Roy Lopez	48141010404	141
<b>Estimated Amount Available</b>	<b>\$40,000</b>					<b>Total HTC's Requested</b>	<b>\$ 51,750.00</b>		

**Region 13/Urban**

20190 Nuestra Senora	415 Montana Avenue	El Paso	79902 El Paso	13 Urban	X General	\$ 184,917.00	Tom Deloye	48141001600	158
20297 Artcraft Palms	6137 Will Jordan Place	El Paso	79932 El Paso	13 Urban	General	\$ 184,916.00	R. L. Bowling, IV	48141010219	155
<b>Estimated Amount Available</b>	<b>\$145,178</b>					<b>Total HTC's Requested</b>	<b>\$ 369,833.00</b>		

<b>Estimated Total Available</b>	<b>\$5,000,000</b>					<b>Total Amount Requested</b>	<b>\$ 3,962,971</b>		
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7h

**BOARD ACTION REQUEST**  
**MULTIFAMILY FINANCE DIVISION**  
**FEBRUARY 10, 2022**

Presentation, discussion, and possible action on a waiver and award of a Predevelopment Grant from the Multifamily 2021-2 Special Purpose Notice of Funding Availability: Predevelopment.

**RECOMMENDED ACTION**

**WHEREAS**, the Department has received three Predevelopment Applications for grants under the 2021-2 Special Purpose Notice of Funding Availability: Predevelopment (NOFA);

**WHEREAS**, Application 21517 The SAFE Alliance, is requesting a Predevelopment Grant of \$50,000 in Tax Credit Assistance Repayment Funds (TCAP RF) for the predevelopment expenses related to SAFE SHP at Grove, which has received complete reviews for compliance with program requirements;

**WHEREAS**, the requested Predevelopment Grant received a positive recommendation from the Executive Award and Review Advisory Committee (EARAC) on January 31, 2022;

**WHEREAS**, the previous participation rule, 10 TAC §1.301(f)(2), indicates that the compliance history of Category 1 applications will be deemed acceptable (for Compliance purposes only) without further review or discussion. The compliance history for this PPR falls under this category and; therefore, has been deemed acceptable;

**WHEREAS**, staff recommends the approval of a Predevelopment Grant under the 2021-2 Special Purpose NOFA to Application 21517 – SAFE SHP at Grove;

**NOW, therefore, it is hereby**

**RESOLVED**, that an award of a \$50,000 Predevelopment Grant from the 2021-2 Special Purpose NOFA to The SAFE Alliance, for the predevelopment of, SAFE SHP at Grove, is hereby approved as presented at this meeting.

## **BACKGROUND**

### **Award of Funds**

The Board approved the 2021-2 Special Purpose NOFA on February 11, 2021, with \$200,000 in TCAP RF, for the purpose of providing grants to nonprofit organizations to fund third-party costs associated with submitting an Application for Multifamily funds.

The SAFE Alliance, a nonprofit corporation, requests a Predevelopment Grant of TCAP Repayment Funds. The Predevelopment Grant is requested for the purpose of preparing a future Uniform Multifamily Application.

The proposed development, SAFE SHP at Grove, will have approximately 40 units of supportive and affordable housing with a preference for victims of domestic violence. The applicant will demolish its current 20-unit residential building in Austin. The proposed SAFE SHP at Grove is located in the Montopolis Neighborhood Plan area which is a partnership in the concerted revitalization of the Montopolis neighborhood. Furthermore, it is located in the City of Austin's Comprehensive Development Plan - Imagine Austin – a vision and roadmap for Austin's future. The Development is the first phase of a reconfiguration of the bigger campus site. A vacant school and a warehouse will be demolished to make way for the Development. Once the Development is constructed, clients will be re-located to the new building, the old SHP buildings will be demolished to make way for a future affordable housing development.

Applications requesting an award of Multifamily funds must meet the Experience Requirement required under 10 TAC §11.204(6). In order to meet the experience requirements an individual must establish that they have experience in the development and placement in service of at least 150 residential units. Upon review, staff found that the documentation provided in the application is sufficient to establish this required experience and granted applicant's request for an experience certificate on August 13, 2021.

If the Applicant (or any Affiliate or assignee) receives an award of credits, bonds, grants, or loan funds for the Site identified in the Contract from the Department before the end of the performance period, Applicant will agree to put one HOME Match eligible TCAP-RF unit on the Development, in addition to any other restricted units. That TCAP-RF Unit must meet the requirements for a HOME Match Unit, as identified 24 CFR Part 92 and the Department's rules.

### **Organizational Structure and Previous Participation**

The Applicant/Borrower is The SAFE Alliance, and includes the entities and principals as illustrated in Exhibit A. The Applicant's portfolio is considered a Category 1 and the previous participation was deemed acceptable by the EARAC without further review or discussion.

**MULTIFAMILY PREDEVELOPMENT APPLICATION 21517 BOARD ACTION**

**REQUEST**

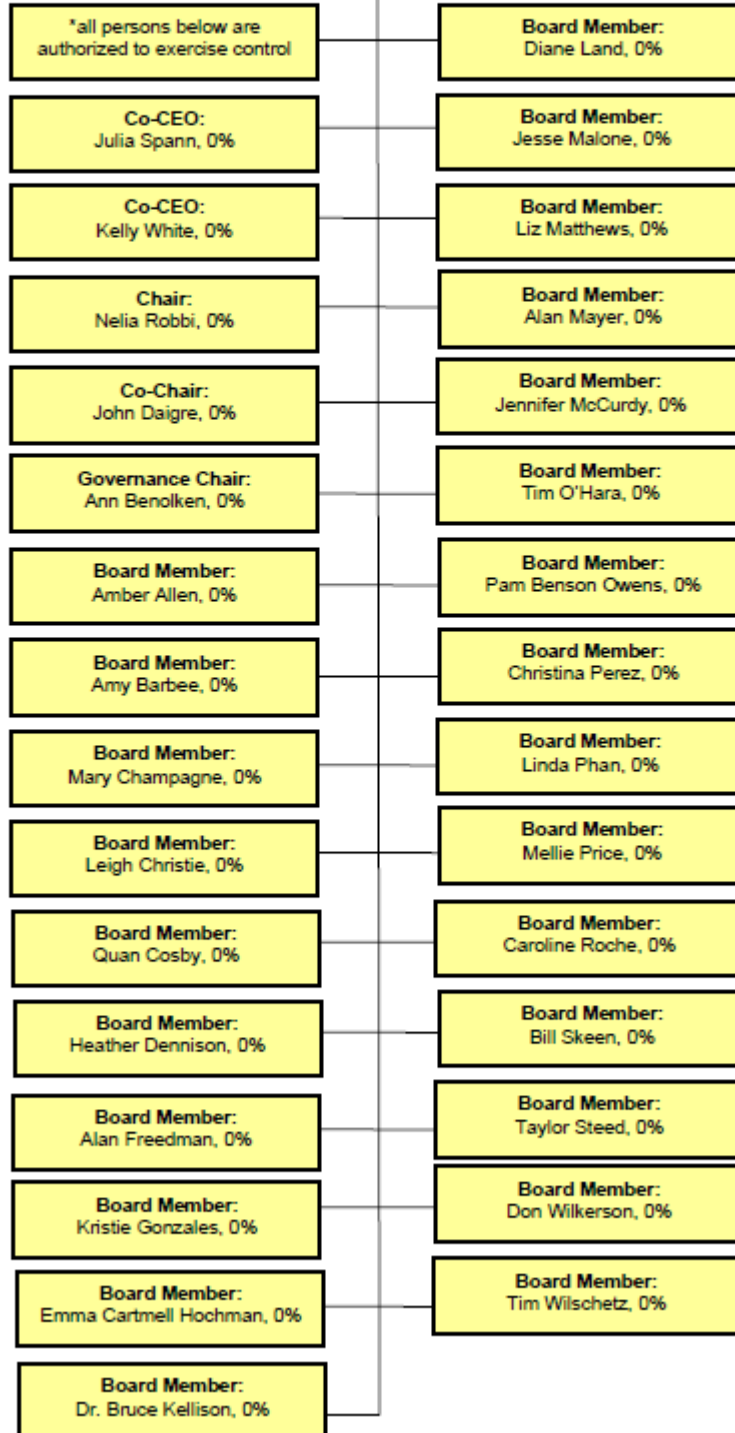
**EXHIBIT A**



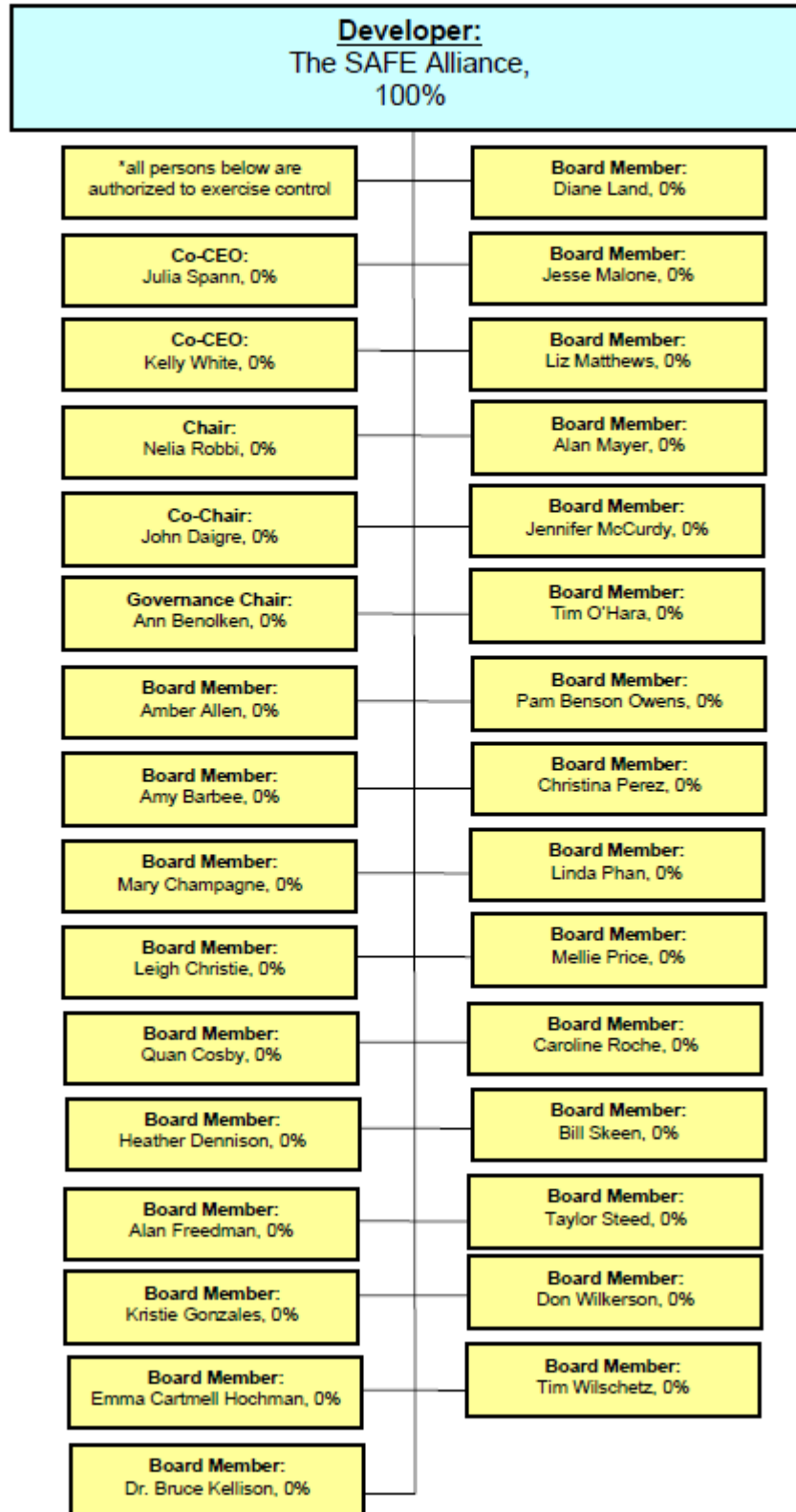
## SAFE SHP AT GROVE - AUSTIN, TEXAS Ownership Chart

**Owner:**  
The SAFE Alliance\*,  
100%

\*NOTE: Please see Tab 10 for name change/merger info



**SAFE SHP AT GROVE - AUSTIN, TEXAS**  
**Developer Chart**



# SAFE SHP AT GROVE - AUSTIN, TEXAS

## Guarantor Chart

